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T.R.A. DOCKET ROOM

April 29, 2004

Hon. Kim Beals  
Tennessee Regulatory Authority  
460 James Robertson Pkwy  
Nashville, Tennessee 37243

Re: *PETITION FOR ARBITRATION OF CELLCO PARTNERSHIP D/B/A VERIZON  
WIRELESS*  
Docket No. 03-00585


Dear Kim,

Enclosed please find one copy of Response of AT&T Wireless PCS, LLC d/b/a AT&T Wireless to the Interrogatories, Requests for Production of Documents Submitted by the Rural Independent Coalition. Also enclosed is one copy of the Response to Rural Coalition Discovery Request. This Response consists of three parts. The responses to Request No. 1 and Request No. 2 are not confidential. The response to Request No. 3 is **Confidential**, and as such, is being filed in a separate envelope and should not be scanned.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By:

  
Henry Walker

HW/krq

**BEFORE THE  
TENNESSEE REGULATORY AUTHORITY**

Petition of:	)	
	)	
Cellco Partnership d/b/a Verizon Wireless for	)	Consolidated Docket
Arbitration under the Telecommunications Act )		No 03-00585
of 1996	)	
	)	

**RESPONSE OF AT&T WIRELESS PCS, LLC D/B/A AT&T WIRELESS TO THE  
INTERROGATORIES, REQUESTS FOR PRODUCTION OF DOCUMENTS  
SUBMITTED BY THE RURAL INDEPENDENT COALITION**

Ardmore Telephone Company, Inc.  
Ben Lomand Rural Telephone Cooperative, Inc.  
Bledsoe Telephone Cooperative  
CenturyTel of Adamsville, Inc.  
CenturyTel of Claiborne, Inc.  
CenturyTel of Ooltewah Collegedale, Inc.  
Concord Telephone Exchange, Inc.  
Crockett Telephone Company, Inc.  
DeKalb Telephone Cooperative, Inc.  
Highland Telephone Cooperative, Inc.  
Humphreys County Telephone Company  
Loretto Telephone Company, Inc.  
North Central Telephone Cooperative, Inc.  
Peoples Telephone Company  
Tellico Telephone Company, Inc.  
Tennessee Telephone Company  
Twin Lakes Telephone Cooperative Corporation  
United Telephone Company  
West Tennessee Telephone Company, Inc.  
Yorkville Telephone Cooperative

“The Coalition of Small LECs and Cooperatives”

|

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Petition of:

Cellco Partnership d/b/a Verizon Wireless for )  
Arbitration under the Telecommunications Act )  
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Consolidated Docket  
No 03-00585

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“The Coalition of Small LECs and Cooperatives”

**BEFORE THE  
TENNESSEE REGULATORY AUTHORITY**

Petition of:

Cellco Partnership d/b/a Verizon Wireless  
For Arbitration Under the  
Telecommunications Act of 1996

)  
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Consolidated Docket  
No. 03-00585

**RESPONSE OF AT&T WIRELESS PCS, LLC D/B/A AT&T WIRELESS TO THE  
INTERROGATORIES, REQUESTS FOR PRODUCTION OF DOCUMENTS  
SUBMITTED BY THE RURAL INDEPENDENT COALITION**

AT&T Wireless PCS, LLC d/b/a AT&T Wireless ("AWS") hereby responds to the Interrogatories and Request for Production of Document submitted by the Rural Independent Coalition (hereafter referred to as the "Rural Independents").

**GENERAL OBJECTIONS**

AWS objects to all interrogatories and requests for production involving documents or data from jurisdictions other than Tennessee. Such documents or data have no application to the present dispute and are irrelevant to a determination of the issues raised in this arbitration. Therefore, in responding to interrogatories and requests for production, AWS will presume that all data and documents requests involve only telecommunications traffic and other activities occurring in Tennessee.

AWS further objects to all interrogatories and requests for production involving documents that are (1) subject to the attorney-client privilege, (2) attorney work-product, or (3) prepared in anticipation of litigation.

AWS further objects to responding to interrogatories and/or requests for production filed in TRA Docket No. 00-00523, the Generic Docket Addressing Rural Universal Service. The

service of interrogatories and requests for production has not been authorized in that docket. Therefore, the responses given herein by AWS do not and shall not apply to TRA Docket No. 00-00523.

AWS further objects on the grounds that a number of the interrogatories and requests seek information which is publicly available or already in the possession of the Rural Independents.

AWS further objects that a number of the interrogatories seek information and documents prior to the time that AWS began offering wireless service in Tennessee. AWS did not have any wireless operations in Tennessee prior to its acquisition of TeleCorp Communications, Inc. ("TeleCorp"), which occurred on February 15, 2002. Although AWS has some of TeleCorp's records, those records are not complete.

Discovery is ongoing, and AWS reserves the right to supplement its response to each interrogatory and request for production if additional information is discovered or developed.

Without waiving any of the above objections, AWS responds as follows:

### **INTERROGATORIES**

1. *State the number of minutes of traffic per month that your company originated in the MTA (i.e., the Nashville MTA and any other MTA that you identify as relevant to your interconnection request that is the subject of this arbitration proceeding) and terminated to each rural Independent for the prior 24 month period.*

**RESPONSE:** AWS objects to this request on the grounds that much of the information requested is in the Rural Independents' possession. In this regard, AWS is informed that for a number of months, BellSouth has been providing 110101 records to the Rural Independents for the CMRS providers which have converted to meet-point billing, including AWS. AWS is further informed that those records indicate the amount of traffic terminated to the Rural Independents.

AWS further objects to this request on the grounds that it does currently not maintain the information requested in the ordinary course of its business. Consistent with the current intercarrier compensation scheme mandated by the Federal Communications Commission ("FCC"), AWS currently tracks – by carrier – the number of minutes that are *terminated on its network* by other carriers – not the number of minutes AWS originates. In addition, AWS does not, in the normal course of business, track originating or terminating minutes by MTA; AWS tracks this information by switch.

AT&T Wireless is currently developing a new data management system that may provide AWS with some of the information requested in this interrogatory, for limited time periods. AWS reserves its right to supplement its response to this interrogatory should such information become available.

2. *Describe the terms and conditions pursuant to which your company has terminated traffic to each rural Independent covering the period from August 8, 1996 to the present.*

**RESPONSE:** Prior to August 4, 2003, AWS (and before February 15, 2002, AWS' predecessors TeleCorp and Tritel Communications, Inc.) terminated traffic to the Rural Independents pursuant to agreements with BellSouth. In response to Request No. 2, AWS has provided copies of those agreements. Pursuant to those agreements, AWS made certain payments to BellSouth, and AWS is informed that BellSouth made certain payments to the Rural Independents. AWS did not receive any compensation from either BellSouth or any Rural Independents for terminating traffic originated by the Rural Independent.

Since at least August 4, 2003, AWS has been in negotiations with the Rural Independents for the establishment of interconnection agreement pursuant to sections 251 and 252 of the Act. Consistent with 47 C.F.R. § 51.713, AWS has offered an interim reciprocal compensation agreement to the Rural Independents, which thus far the Rural Independents have rejected.

3. *State the amount of compensation per month that your company has paid each rural Independent for the termination of traffic provider during the past 24 months*

**RESPONSE:** None directly. As noted in response to Interrogatory No. 2 above, for most of the above time period in question, AWS compensated BellSouth for traffic it originated and that terminated on the Rural Independents' networks. For the remaining portion of the applicable time period, pursuant to the FCC's rules, AWS has offered to pay the Rural Independents interim compensation, an offer which has been rejected.

4. *Describe any arrangements, contracts or agreements that address or refer to any terms and conditions that establish an existing or contingent obligation of your company to compensate or reimburse BellSouth with respect to any charges paid by BellSouth to any rural Independent.*

**RESPONSE:** None currently. AWS described the arrangements that were in effect prior to August 4, 2003 in response to Interrogatory No. 2 above.

5. *With reference to Section 51.701(c) of the Rules and Regulations of the FCC, describe all existing points of interconnection between your company and each rural Independent and any interconnection point your company seeks to establish with a rural Independent.*

**RESPONSE:** AWS objects to Interrogatory No. 5 as vague and ambiguous on the grounds that the phrases "points of interconnection" and "interconnection points" are undefined. In answering, AWS relies upon the definitions of "Interconnection" in 47 C.F.R. § 51.5 and "Transport" in 47 C.F.R. § 51.701(c), and assumes that Interrogatory No. 5 seeks identification of the physical point(s) at which traffic originated on one party's network is handed off to the network of the terminating party for reciprocal compensation purposes.

Absent any unique situations which AWS is not aware of as of the time of answering, the BellSouth network serves as the interconnection link between the originating and terminating parties' respective networks. Traffic originated on the Rural Independents' networks that is delivered to BellSouth is, in turn, handed by BellSouth to AWS at the same point at which BellSouth is interconnected with AWS. For any given Rural Independent, this point should be at

the BellSouth LATA tandem in which the Rural Independent is located. Traffic originated on AWS' network that is delivered to BellSouth is, in turn, handed by BellSouth to the Rural Independent network at the same point at which BellSouth is interconnected with the Rural Independent. For any given Rural Independent, this point should be at the existing "meetpoint" between BellSouth and the Rural Independent.

As of the time of answering, AWS does not believe any direct connections exist between AWS and a given Rural Independent. AWS desires to continue to use the existing, indirect physical interconnection points to exchange traffic with any given Rural Independent until the volume of traffic exchanged between that Independent and AWS warrants installation of direct interconnection facilities.

6. *Does all traffic originating on your network and destined to terminate on the network of a rural Independent currently interconnect indirectly through BellSouth? If the answer is no, please describe the geographic area from which any such traffic originates and describe the interconnection arrangement used to terminate the traffic to the rural Independent.*

**RESPONSE:** AWS objects to the question on the grounds that "traffic" is not defined. However, assuming that by "traffic" the Rural Independents mean intraMTA traffic, to the best of AWS' knowledge the vast majority of intraMTA traffic that originates on AWS' network and terminates on the networks of the Rural Independents is sent through BellSouth to the Rural Independents. It is possible that an incidental amount of intraMTA traffic (e.g., overflow traffic) is routed to one of the interexchange carriers AWS uses to carry interMTA traffic. AWS does not have personal knowledge of the interconnection arrangements these interexchange carriers have with the Rural Independents (i.e., whether they are direct or indirect).

7. *Does your company provide local exchange service in Tennessee?*

**RESPONSE:** AWS objects to the question on the grounds that its use of the term "local exchange service" is ambiguous and at odds with the terms used in the 1996



Telecommunications Act. Nevertheless, AWS uses its best efforts to provide responsive information.

In the Federal Communications Commission's ("FCC") *First Report and Order on Local Competition*, 11 FCC Rcd. 15499 (1996), the FCC found that wireless carriers provide "telephone exchange service" (Paras 1012-1015). However, the FCC declined to treat CMRS providers as local exchange *carriers* or to subject them to the duties and obligations imposed on incumbent LECs under section 251(c) (Paras 1004-1006).

- 8 *Does your company provide customer rate plans with unlimited usage (irrespective of day or time of day) within a geographic area that overlaps with the area served by any rural Independent and permits unlimited calling to customers of that rural Independent. If yes, please identify the geographic area and provide copies of the rate plan.*

**RESPONSE:** No.

#### **REQUESTS FOR PRODUCTION**

1. *Provide copies of all effective interconnection agreements approved by the TRA (or its predecessor) between your company and BellSouth covering the period from August 8, 1996 to the present. Separately identify any such agreements, contracts and documents that constitute, or contain provisions that constitute, a "Meet-Point Billing Arrangement"*

**RESPONSE:** In responding to this request, AWS is interpreting "Meet-Point Billing Arrangement" in the manner used in the BellSouth-AWS interconnection agreement produced in response to Request No. 1. In response to this request, AWS is providing a copy of the following interconnection agreement:

- June 14, 2001 Agreement between BellSouth Telecommunications, Inc. and AT&T Wireless Services, Inc.\*

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\* Agreement references meet point billing

2. *Provide copies of all other agreements, contracts and documents that reflect any service arrangements between your company and BellSouth covering the period from August 8, 1996 to the present. Separately identify any such agreements, contracts and documents that constitute, or contain provisions that constitute, a "Meet-Point Billing Arrangement."*

**RESPONSE:** In responding to this request, AWS is interpreting "Meet-Point Billing Arrangement" in the manner used in the BellSouth-AWS interconnection agreement produced in response to Request No. 1. AWS objects to this requests on the grounds that it is overbroad and not likely to lead to the production of relevant information. In response to Request No. 1, AWS is producing copies of all effective agreements with BellSouth relating to traffic exchanged between AWS and the Rural Independents. In response to this interrogatory, AWS is producing copies of post-1996 interconnection agreements between BellSouth and AWS' predecessors in interest in Tennessee. Other agreements between AWS and BellSouth are not likely to lead to the production of information relevant to issues raised in this arbitration, and the search to find all such documents would be enormously time-consuming and wasteful.

In response to this request, AWS is providing a copy of the following interconnection agreements:

- November 24, 1998 Agreement between BellSouth Telecommunications, Inc. and TeleCorp Communications, Inc.
  - July 21, 2000 Agreement between BellSouth Telecommunications, Inc. and TeleCorp Communications, Inc.
  - March 16, 2001 Agreement between BellSouth Telecommunications, Inc. and Tritel Communications, Inc.
3. *Provide copies of all correspondence or any other documented communications between your company and BellSouth (including, but not limited to, correspondence between counsel) that address, discuss, or refer to "meet-point billing" or any interconnection arrangement that is associated with traffic terminated on a rural Independent network.*

**RESPONSE:** In responding to this request, AWS is interpreting "Meet-Point Billing Arrangement" in the manner used in the Bellsouth-AWS interconnection agreement produced in

response to Request No. 1. AWS objects to this request on the grounds that it is extremely broad and that the process of searching for and producing all potentially responsive documents would be inordinately burdensome.

By requesting correspondence and other documented communications between AWS and BellSouth that address “any interconnection arrangement that is *associated* with traffic terminated on a rural Independent network”, this request arguably asks AWS to produce all communications it has ever had with BellSouth about any interconnection agreement. The volume of communications exchanged between parties both negotiating and implementing the agreements the length and breadth of the types entered into between AWS and BellSouth are quite large and may be in the possession of a number of AWS employees in multiple departments in the company. Moreover, little of that communication bears any potential relevance to the issues in this arbitration. Accordingly, AWS will use its best efforts to produce all correspondence and communications between AWS and BellSouth that specifically relate to either the establishment of a “meet point billing arrangement” or an interconnection arrangement that is associated with traffic terminating on a Rural Independent network, subject to the following limitations.

- (i) This request is broad enough to also encompass all communications between BellSouth and AWS in connection with the instant proceeding or TRA Docket No. 00-00523. AWS will not produce correspondence that has been copied to the Rural Independents or is on file with the TRA.
- (ii) Certain of the interconnection arrangements at issue were negotiated by AWS’ predecessors in interest in the Tennessee markets, Telecorp

and Tritel. Although AWS has a copy of the final interconnection agreements negotiated by those entities, it does not, to the best of its knowledge have any of the communications relating to those agreements.

AWS reserves its right to supplement its response to this request if it discovers other responsive documents. In addition please note that many of the documents produced in response to this request have been marked "Confidential" and are being produced pursuant to the protective order.

4. *Provide copies of all filings by your company (including, but not limited to, comments and ex partes) before the Federal Communications Commission in CC Docket 01-92*

**RESPONSE:** AWS objects to this request on the grounds that the documents sought are publicly available on the FCC website.

5. *Provide copies of any agreements that set forth the terms and conditions identified in response to Interrogatory No. 2.*

**RESPONSE:** A copy of the cited agreement with BellSouth has been produced in response to Request No. 1.

6. *Provide copies of any arrangements, contracts or agreements described in response to Interrogatory No 4*

**RESPONSE:** None.

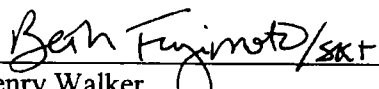
7. *Provide copies of any agreements, including but not limited to interconnection agreements and settlement agreements, entered into by your company, BellSouth and one or more local exchange companies (other than BellSouth) that address any issues that are similar to the issues pending in this proceeding. Include all such agreements irrespective of whether the agreement is effective in Tennessee or any other state.*

**RESPONSE:** AWS objects to this request on the grounds that the phrase "similar to the issues pending in this proceeding" is vague and ambiguous, and AWS does not know how to

interpret it. AWS further objects to this request on the grounds that any agreements of any nature executed in jurisdictions other than Tennessee are not relevant to a determination of the issues raised in this arbitration nor likely to lead to the discovery of such information.

Respectfully submitted,

Beth Fujimoto  
Regulatory Attorney  
AT&T Wireless Services, Inc.  
7277 164<sup>th</sup> Avenue NE  
Redmond, WA 90252

  
\_\_\_\_\_  
Henry Walker  
Boult Cummings Conners & Berry, PLC  
414 Union Street, Ste. 1600  
Nashville, TN 37219  
Ph. (615) 252-2363

## CERTIFICATE OF SERVICE

I hereby certify that on April 29, 2004, a true and correct copy of the foregoing has been served on the parties of record, via the method indicated. Copies of the documents produced in response to this request, will be provided upon request.

<input checked="" type="checkbox"/> Hand <input type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight	Stephen G Kraskin Kraskin, Lesse & Cosson, LLP 2120 L Street NW, Suite 520 Washington, D.C. 20037
<input type="checkbox"/> Hand <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight	J. Gray Sasser, Esquire Miller & Martin LLP 1200 One Nashville Place 150 Fourth Avenue North Nashville, Tennessee 37219
<input type="checkbox"/> Hand <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight	Paul Walters, Jr. 15 East 1 <sup>st</sup> Street Edmond, OK 73034
<input type="checkbox"/> Hand <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight	Mark J. Ashby AWS 5565 Glennridge Connector Suite 1700 Atlanta, GA 30342
<input type="checkbox"/> Hand <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight	Suzanne Toller Davis Wright Tremaine LLP One Embarcadero Center, #600 San Francisco, CA 94111-3611
<input type="checkbox"/> Hand <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight	Beth K. Fujimoto, Esquire AT&T Wireless Services, Inc. 7277 164 <sup>th</sup> Ave., NE Redmond, WA 90852
<input type="checkbox"/> Hand <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Facsimile <input type="checkbox"/> Overnight	James B. Wright Sprint 14111 Capital Boulevard Wake Forest, NC 27587

<input type="checkbox"/>	Hand	Monica M. Barone
<input checked="" type="checkbox"/>	Mail	Sprint PCS
<input type="checkbox"/>	Facsimile	6450 Sprint Parkway, MailStop 2A459
<input type="checkbox"/>	Overnight	Overland Park, KS 66251
<input type="checkbox"/>	Hand	Tom Sams
<input checked="" type="checkbox"/>	Mail	ClearTalk
<input type="checkbox"/>	Facsimile	1600 Ute Avenue
<input type="checkbox"/>	Overnight	Grand Junction, CO 81501
<input type="checkbox"/>	Hand	Dan Menser
<input checked="" type="checkbox"/>	Mail	Sr Corporate Counsel
<input type="checkbox"/>	Facsimile	T-Mobile USA, Inc.
<input type="checkbox"/>	Overnight	12920 SE 38 <sup>th</sup> Street
		Bellevue, WA 98006
<input type="checkbox"/>	Hand	Marin Fettman
<input checked="" type="checkbox"/>	Mail	Corporate Counsel, Regulatory Affairs
<input type="checkbox"/>	Facsimile	T-Mobile USA, Inc.
<input type="checkbox"/>	Overnight	12920 SE 38 <sup>th</sup> Street
		Bellevue, WA 98006
<input type="checkbox"/>	Hand	Leon M. Bloomfield
<input checked="" type="checkbox"/>	Mail	Wilson & Bloomfield, LLP
<input type="checkbox"/>	Facsimile	1901 Harrison St., Suite 1630
<input type="checkbox"/>	Overnight	Oakland, CA 94612

Christina Karo  
Christina Karo

4/28/04

TRA Consolidated Docket No. 03-00585  
AWS Response to Rural Coalition Discovery Request  
Request No. 1



CMRS0039  
CMRS0040  
CMRS0041  
CMRS0042  
CMRS0051

**INTERCONNECTION  
AGREEMENT  
BETWEEN  
BELLSOUTH TELECOMMUNICATIONS, INC.  
AND  
AT&T WIRELESS SERVICES, INC.**

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CMRS0039  
CMRS0040  
CMRS0041  
CMRS0042  
CMRS0051

## **AGREEMENT**

**THIS AGREEMENT** is made by and between BellSouth Telecommunications, Inc., ("BellSouth"), a Georgia Corporation, and AT&T Wireless Services, Inc., ("AWS") a Delaware Corporation, and shall be deemed effective as of June 14, 2001, (the "Effective Date"). This Agreement may refer to either BellSouth or AWS or both as a "Party" or "Parties."

### **WITNESSETH**

WHEREAS, BellSouth is a local exchange telecommunications company authorized to provide telecommunications services in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee; and

WHEREAS, AWS is a Commercial Mobile Radio Service ("CMRS") provider licensed by the Federal Communications Commission ("FCC") to provide CMRS in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee; and

WHEREAS, the Parties wish to interconnect their facilities and exchange traffic for the purposes of fulfilling their obligations pursuant to sections 251 and 252 of the Telecommunications Act of 1996 and to replace any and all other prior agreements, both written and oral;

**NOW THEREFORE**, in consideration of the mutual agreements contained herein, BellSouth and AWS agree as follows:

#### **I. Definitions**

Special meanings are given to common words in the telecommunications industry, and coined words and acronyms are common in the industry. Words used in this Agreement are to be understood according to the custom and usage of the telecommunications industry or as defined by the Telecommunications Act of 1996 or the rules and regulations of the FCC, as an exception to the general rule of contract interpretation that words are to be understood in their ordinary and popular sense. In addition to this rule of interpretation, the following terms used in this Agreement shall have the meanings as specified below:

**A. Commission** is defined as the appropriate regulatory agency in each of BellSouth's nine state region: Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.

**B. Intermediary Traffic** is defined as the delivery, pursuant to this Agreement, of local or toll (using traditional landline definitions) traffic to or from a local exchange carrier other than BellSouth; a CLEC; or another telecommunications company such as a CMRS provider other than AWS through the network of BellSouth or AWS from or to an end user of BellSouth or AWS. All local or toll traffic from a local exchange carrier delivered to AWS not originated on the BellSouth network is considered Intermediary Traffic.

**C. Local Traffic** is defined for purposes of reciprocal compensation under this Agreement as: (1) any telephone call that originates on the network of AWS within a Major Trading Area ("MTA") and terminates on the network of BellSouth in the same MTA and within the Local Access and Transport Area ("LATA") in which the call is handed off from AWS to BellSouth, and (2) any telephone call that originates on the network of BellSouth that is handed off directly to AWS in the same LATA in which the call originates and terminates on the network of AWS in the MTA in which the call is handed off from BellSouth to AWS. The exchange of traffic on BellSouth's interLATA EAS routes shall be treated as Local Traffic. For purposes of this Agreement, LATA shall have the same definition as that contained in the Telecommunications Act of 1996, and MTA shall have the same definition as that contained in the FCC's rules. Traffic delivered to or received from an interexchange carrier by either Party is not considered Local Traffic.

**D. Local Interconnection** is defined for purposes of this Agreement as the delivery of Local Traffic to be terminated on each Party's local network so that end users of either Party have the ability to reach end users of the other Party without the use of any access code or substantial delay in the processing of the call.

**E. Percent of Interstate Usage (PIU)** is defined as a factor to be applied to that portion of InterMTA Traffic comprised of interstate interMTA minutes of use in order to designate those minutes that should be rated as interstate Switched Access Services minutes of use. The numerator includes all interstate interMTA minutes of use, less any interstate minutes of use for "Terminating Party Pays" services, such as 800 Services. The denominator includes all interMTA minutes of use less all minutes attributable to Terminating Party Pays services.

**F. Percent Local Usage (PLU)** is defined as a factor to be applied to terminating minutes of use. The numerator is all "nonintermediary" Local Traffic minutes of use. The denominator is the total minutes of use including Local, Intermediary and interMTA Traffic.

**G. Point of Interconnection (POI)** is defined as the physical geographic location(s), within BellSouth's service area within a LATA, at which the Parties terminate interconnection facilities for the origination and/or termination of traffic. This point establishes the technical interface, the test point(s), and the point(s) for operational division of responsibility between BellSouth's network and AWS' network.

**H. Switched Access Services** means an offering of access to services or facilities for the purpose of the origination or the termination of traffic from or to exchange service customers in a given area pursuant to a switched access tariff. Switched Access Services include: Feature Group A ("FGA"), Feature Group B ("FGB"), Feature Group D ("FGD"), toll free service, and 900 access.

**I. Telecommunications Act of 1996 (Act)** means Public Law 104-104 of the United States Congress effective February 8, 1996. The Act amended the Communications Act of 1934 (47, U.S.C. Section 1 et. seq.).

**J. Type 1 Interconnection** is a trunk side connection between a BellSouth end office and an AWS POI and provides the capability to access all BellSouth end offices within the LATA. Type 1 Interconnection is technically defined in Telcordia Technical Reference GR-145-CORE, Issue 2 May 1998, as in effect from time to time (or any successor thereto).

**K. Type 2A Interconnection** are one-way or two-way facilities that provide a trunk side connection between a BellSouth tandem switch and an AWS POI and provides access to all BellSouth end offices and third party providers subtending the BellSouth tandem. Type 2A Interconnection is technically defined in Telcordia Technical Reference GR-145-CORE, Issue 2 May 1998, as in effect from time to time (or any successor thereto).

**L. Type 2B Interconnection** are one-way or two-way facilities that provide a high usage route between a BellSouth end office and an AWS POI and provides access to all BellSouth NXX codes homed in that specific end office and is provided in conjunction with Type 2A Interconnection. Type 2B Interconnection is technically defined in Telcordia Technical Reference GR-145-CORE, Issue 2 May 1998, as in effect from time to time (or any successor thereto).

## **II. Purpose**

The Parties desire to enter into this Agreement consistent with all applicable federal, state and local statutes, rules and regulations in effect as of the date of its execution including, without limitation, the Act at Sections 251 and 252. The access and interconnection obligations contained herein assist in enabling each Party to provide such telecommunications services as each is authorized to provide in each of the respective states within the nine state region of BellSouth.

### **III. Term of the Agreement**

**A.** The term of this Agreement shall be two (2) years, beginning on the Effective Date. If as of the expiration of this Agreement, a Subsequent Agreement (as defined in Section B below) has not been executed by the Parties, this Agreement shall continue on a month-to-month basis while a Subsequent Agreement is being negotiated. The Parties' rights and obligations with respect to this Agreement after expiration shall be as set forth in Section D below.

**B.** The Parties agree that by no later than one hundred and eighty (180) days prior to the expiration of this Agreement, they shall commence negotiations with regard to the terms, conditions and prices of Local Interconnection to be effective beginning on the expiration date of this Agreement ("Subsequent Agreement").

**C.** If, within one hundred and thirty-five (135) days of commencing the negotiation referred to in Section B above, the Parties are unable to satisfactorily negotiate new Local Interconnection terms, conditions and prices, either Party may petition the Commission to establish appropriate Local Interconnection arrangements pursuant to 47 U.S.C. 252. The Parties agree that, in such event, they shall encourage the Commission to issue its order regarding the appropriate Local Interconnection arrangements no later than the expiration date of this Agreement. The Parties further agree that in the event the Commission does not issue its order prior to the expiration date of this Agreement, or if the Parties continue beyond the expiration date of this Agreement to negotiate the Local Interconnection arrangements without Commission intervention, the terms, conditions and prices ultimately ordered by the Commission, or negotiated by the Parties, will be effective retroactive to the day following the expiration date of this Agreement.

**D.** Notwithstanding the foregoing, in the event that as of the date of expiration of this Agreement and conversion of this Agreement to a month-to-month term, the Parties have not entered into a Subsequent Agreement and either no arbitration proceeding has been filed in accordance with Section C above, or the Parties have not mutually agreed (where permissible) to extend the arbitration window for petitioning the applicable Commission(s) for resolution of those terms upon which the Parties have not agreed, then either Party may terminate this Agreement upon sixty (60) days notice to the other Party. In the event that BellSouth terminates this Agreement as provided above, BellSouth shall continue to offer services to AWS pursuant to the terms, conditions and rates set forth in BellSouth's General Subscriber Services Tariff, Section A35, or, in the case of North Carolina, in the North Carolina Connection and Traffic Interchange Agreement effective June 30, 1994, as amended.

#### **IV. Methods of Interconnection**

**A.** There are three (3) appropriate methods of interconnecting facilities: (1) interconnection via purchase of facilities from either Party, or a third party, by the other Party; (2) physical collocation; and (3) virtual collocation where physical collocation is not practical for technical reasons or because of space limitations. Type 1, Type 2A and Type 2B Interconnection arrangements may be purchased pursuant to this Agreement. Rates and charges for both virtual and physical collocation may be provided in a separate collocation agreement. Rates for virtual collocation will be based on BellSouth's Interstate Access Services Tariff, FCC #1, Section 20 and/or BellSouth's Intrastate Access Services Tariff, Section E20. Rates for physical collocation will be negotiated on an individual case basis.

**B.** The Parties will accept and provide any of the preceding methods of interconnection. Reciprocal connectivity shall be established to at least one (1) BellSouth access tandem within every LATA AWS desires to serve, or AWS may elect to interconnect directly at an end office for interconnection to end users served by that end office. Such interconnecting facilities shall conform, at a minimum, to the telecommunications industry standard of DS-1 pursuant to Bellcore Standard No. TR-NWT-00499. Signal transfer point, Signaling System 7 ("SS7") connectivity is required at each interconnection point after AWS implements SS7 capability within its own network. BellSouth will provide out-of-band signaling using Common Channel Signaling Access Capability where technically and economically feasible, in accordance with the technical specifications set forth in the BellSouth Guidelines to Technical Publication, TR-TSV-000905. The Parties facilities' shall provide the necessary on-hook, off-hook answer and disconnect supervision and shall hand off calling party number ID when technically feasible.

**C.** In the event a Party interconnects via the purchase of facilities and/or services from the other Party, the appropriate tariff, as amended from time to time will apply.

**D.** The Parties will establish trunk groups from the interconnecting facilities of subsection A above. Each Party will use commercially reasonable efforts to construct its network, including the interconnecting facilities, to achieve optimum cost effectiveness and network efficiency.

**E.** When the Parties provide a Switched Access Service connection between an Interexchange Carrier ("IXC") and BellSouth, each Party will provide its own Switched Access Services to the IXC. If access charges are billed, each Party will bill its own Switched Access Service rates to the IXC.

## **V. InterMTA and Intermediary Traffic Interconnection**

A. The delivery of interMTA Traffic by a Party to the other Party shall be reciprocal and compensation will be mutual. For terminating such traffic on the other Party's network, each Party will pay either the access charges outlined in subsection B hereunder or the Intermediary Traffic charges described in subsection D hereunder, as appropriate.

B. For originating and terminating intrastate or interstate interMTA Traffic, each Party shall pay the other BellSouth's intrastate or interstate, as appropriate, Switched Access Service rate elements on a per minute of use basis, which are set out in BellSouth's Intrastate Access Services Tariff or BellSouth's Interstate Access Services Tariff as those tariffs may be amended from time to time during the term of this Agreement. The Parties shall agree for purposes of this section what percentage of traffic delivered to BellSouth by AWS shall be subject to interMTA Traffic charges as well as the percentage of traffic delivered to AWS by BellSouth shall be subject to interMTA Traffic charges.

C. Actual traffic measurements in each of the appropriate categories is the preferred method of classifying and billing traffic. If, however, either Party cannot measure traffic in each category, then the Parties shall agree on a surrogate method of classifying and billing traffic, taking into consideration territory served (e.g. MTA boundaries, LATA boundaries and state boundaries) and traffic routing of the Parties.

D. If Intermediary Traffic originated by AWS is delivered by BellSouth for termination to the network of a nonparty telecommunications carrier ("Nonparty Carrier"), then BST will bill AWS and AWS shall pay a \$.002 per minute intermediary charge. BellSouth shall not deliver traffic to AWS which is destined for the network of a nonparty telecommunications carrier, and thus none of the traffic delivered to AWS by BellSouth shall be subject to the intermediary charges. Also, Intermediary Traffic transiting BellSouth's network to AWS is not subject to reciprocal compensation from BellSouth.

## **VI. Meet Point Billing**

A. For purposes of this Agreement, Meet Point Billing, as supported by Multiple Exchange Carrier Access Billing (MECAB) guidelines, shall mean the exchange of billing data relating to jointly provided switched access calls and/or calls transiting BellSouth's network from an originating telecommunications carrier other than BellSouth and terminating to a telecommunications carrier other than BellSouth or the originating telecommunications carrier. Subject to AWS providing all necessary information, BellSouth agrees to participate in Meet Point Billing for traffic which transits it's network when both the originating and terminating parties participate in Meet Point Billing with BellSouth. Traffic from a network which does not participate in Meet Point Billing will be delivered by



BellSouth, however, call records for traffic originated and/or terminated by a non-Meet Point Billing network will not be delivered to the originating and/or terminating network.

B. Parties participating in Meet Point Billing with BellSouth are required to provide information necessary for BellSouth to identify the parties to be billed. Information required for Meet Point Billing includes, but is not limited to; (1) Regional Accounting Office code (RAO), (2) Operating Company Number (OCN), (3) a unique Access Carrier Name Abbreviation (ACNA), (4) Percent Interstate Usage (PIU), (5) Percent Local Usage (PLU), (6) 800 Service Percent Interstate Usage or default of 50%, and (7) Billing Interconnection Percentage. A default Billing Interconnection Percentage of 95% BellSouth and 5% AWS will be used if AWS does not file with NECA to establish a Billing Interconnection Percentage. AWS must support Meet Point Billing for all intermediary calls in accordance with Mechanized Exchange Carrier Access Billing (MECAB) guidelines. The Parties acknowledge that the exchange of 1150 records will not be required.

C. Meet Point Billing will be provided for traffic which transits BellSouth's network at the access tandem level only. Parties desiring Meet Point Billing will subscribe to access tandem level interconnections (Type 2A Interconnection) with BellSouth and will deliver all Intermediary Traffic to BellSouth over such access tandem level interconnections. Additionally, exchange of records will necessitate both the originating and terminating networks to subscribe to dedicated NXX codes, which can be identified as belonging to the originating and terminating network. When the access tandem, in which interconnection occurs, does not have the capability to record messages and either surrogate or self-reporting of messages and minutes of use occur, Meet Point Billing will not be possible and will not occur. The Parties will work cooperatively to develop and enhance processes to deal with messages handled on a surrogate or self-reporting basis.

D. In a Meet Point Billing environment, when a party actually uses a service provided by BellSouth, said party will be billed for miscellaneous usage charges, as defined in BellSouth's FCC No.1 and appropriate state access tariffs, (i.e. Local Number Portability queries and 800 Data Base queries) necessary to deliver certain types of calls. Should AWS desire to avoid such charges AWS may perform the appropriate data base query prior to delivery of such traffic to BellSouth.

E. Participation in Meet Point Billing is outside the reciprocal compensation requirements of this Agreement. Meet Point Billing, as defined in VI. A above, will result in AWS compensating BellSouth at the intermediary rate in Section V. D of this Agreement for traffic delivered to BellSouth's network, which terminates to another telecommunications carrier. Meet Point Billing to IXC's for jointly provided Switched Access Service traffic will occur consistent with the most current MECAB billing guidelines.

F. Commencement of exchange of records will begin no earlier than sixty (60) days from the later date of, the date the contract is signed or the date that all necessary information as defined in Section VI. B above is provided. The date the Parties begin the exchange of records process will be the date that the percentages in Section V of this Agreement will no longer be applicable.

## **VII. Compensation and Billing**

### **A. Compensation**

1. Each Party will pay the other for terminating its Local Traffic on the other's network at the CMRS Local Interconnection Rates as set forth in Attachments B-1 and B-2. These rates are reciprocal for mobile-to-land and land-to-mobile calls.

2. Where one-way interconnection trunking facilities are used, each Party will be solely responsible for the recurring and non-recurring cost of that facility up to the POI.

3. The Parties agree to share proportionately in the recurring costs of two-way interconnection trunking facilities

a. To determine the amount of compensation due to AWS for two-way interconnection trunking facilities for the transport of Local Traffic originating on BellSouth's network and terminating on AWS's network the Parties will develop statewide mobile to land and land to mobile traffic factors based on billed conversation minutes of use. At a minimum, the Parties will use a three (3) month average of billed usage to develop the traffic factors. These factors may be updated every six (6) months at either Party's request or when significant network changes occur in either Party's network.

b. AWS will also provide or bear the cost of it's portion of trunk groups carrying Intermediary Traffic.

4. If either Party provides one hundred percent (100%) of the two-way interconnection trunking facility via lease of third party facilities or construction of its own facilities, either Party may charge for the proportionate amount based on relative usage using the lesser of: (a) BellSouth's dedicated transport rate; (b) AWS's costs if filed and approved by a Commission of appropriate jurisdiction; or (c) the actual cost of the interconnection facility.

## **B. Billing**

1. The charges for Local Interconnection are to be billed monthly and paid within thirty (30) days. Usage charges will be billed in arrears, facility charges will be billed in advance.
2. Charges for terminating traffic will be the actual conversation minutes of use (MOUs) measured from receipt of answer supervision to receipt of disconnect supervision, with such time accumulated at the end of the billing period and rounded up to the next whole minute.
3. The Parties will use an auditable PLU factor as a method for determining whether traffic is Local, Intermediary or InterMTA Traffic. The PLU factor will be used for traffic delivered by either Party for termination on the other Party's network.
4. BellSouth will bill AWS for the entire cost of the interconnection trunking facility provided by BellSouth. AWS will then apply the land to mobile factor for Local Traffic against the total two-way facility charges billed by BellSouth to AWS. AWS will then invoice BellSouth on a monthly basis, this proportionate cost for the interconnection trunking facility utilized by BellSouth.
5. Billing disputes shall be handled pursuant to the terms of this Section.
  - a. Each Party agrees to notify the other Party in writing upon the discovery of a billing dispute within sixty (60) calendar days of bill date. In the event of a billing dispute, the Parties will endeavor to resolve the dispute within sixty (60) calendar days of the notification date. If the appropriate billing contacts are unable to resolve the dispute, the issue may be escalated to the appropriate business representatives who will then have thirty (30) days to resolve the dispute. In the event that a billing dispute arises concerning any charges which cannot be resolved by reasonable business measures, the dispute shall be resolved in accordance with the Dispute Resolution provisions set forth in Section XXI of this Agreement.
  - b. For purposes of this Section, a billing dispute means a dispute of a specific amount of money actually billed by either

Party. The dispute must be clearly explained by the disputing Party and supported by written documentation, which clearly shows the basis for disputing charges. By way of example and not by limitation, a billing dispute will not include the refusal to pay all or part of a bill or bills when no written documentation is provided to support the dispute, nor shall a billing dispute include the refusal to pay other amounts owed by the billed Party until the dispute is resolved. Claims by the billed Party for damages of any kind will not be considered a billing dispute for purposes of this Section. Once the billing dispute is resolved, the disputing Party will make immediate payment of any of the disputed amount owed to the billing Party or the billing Party shall have the right to pursue normal treatment procedures. Any credits due to the disputing Party, pursuant to the billing dispute, will be applied to the disputing Party's account by the billing Party immediately upon resolution of the dispute.

c. If a Party disputes a charge and does not pay such charge by the payment due date, or if a payment or any portion of a payment is received by either Party after the payment due date, or if a payment or any portion of a payment is received in funds which are not immediately available to the other Party, then a late payment charge shall be assessed. For bills rendered by either Party for payment, the late payment charge for both Parties shall be calculated based on the portion of the payment not received by the payment due date times the late factor. The Parties shall assess interest on previously assessed late payment charges only in a state where it has the authority pursuant to its tariffs.

6. Late payment fees, not to exceed 1 1/2% per month (or a lower percent as specified by an appropriate state regulatory agency or state law) after the due date may be assessed, if undisputed Local Interconnection charges are not paid, within thirty (30) days after the due date of the monthly bill. All charges under this Agreement shall be billed within one (1) year from the time the charge was incurred, previously unbilled charges more than one (1) year old shall not be billed by either Party.

7. Deposit Policy. Because the Parties have established a good payment history, as of the date of the execution of this Agreement, they do not require deposits at this time.

#### **VIII. Provision of Network Elements**

A. BellSouth shall, upon request of AWS, and to the extent technically feasible, provide to AWS access to its network elements for the provision of

telecommunications service. Any request by AWS for access to a BellSouth network element that is not already available shall be treated as a network element bona fide request. AWS will pay BellSouth the cost associated with the bona fide request if AWS cancels the request or fails to purchase the service once completed. AWS shall provide BellSouth access to its network elements as mutually agreed by the Parties or as required by the Commission or the FCC.

B. A separate agreement or an amendment to this Agreement shall be required for utilization of the above referenced network elements

#### **IX. Access To Poles, Ducts, Conduits, and Rights of Way**

BellSouth will provide to AWS, pursuant to 47 U.S.C. § 224, as amended by the Act, nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by BellSouth.

#### **X. Access to 911/E911 Emergency Network**

A. BellSouth and AWS recognize that 911 and E911 services were designed and implemented primarily as methods of providing emergency services to fixed location subscribers. While BellSouth and AWS recognize the need to provide "911-like" service to mobile subscribers, both Parties recognize that current technological restrictions prevent an exact duplication of the services provided to fixed location customers. BellSouth will route "911-like" calls received from AWS to the emergency agency designated by AWS for such calls. AWS will provide the information necessary to BellSouth so that each call may be properly routed and contain as much pertinent information as is technically feasible.

B. BellSouth and AWS recognize that the technology and regulatory requirements for the provision of "911-like" service by CMRS providers are evolving and agree to modify or supplement the foregoing in order to incorporate industry accepted technical improvements that AWS desires to implement and to permit AWS to comply with applicable regulatory requirements.

C. The Parties currently have an Enhanced 911 Services and Facilities Agreement which addresses the provision of wireless E911 service to AWS

#### **XI. Directory Listings**

A. Subject to execution of an agreement between AWS and BellSouth's affiliate, BellSouth Advertising & Publishing Corporation, ("BAPCO") and upon AWS's request, listings for any of AWS's subscribers requesting the same shall be included in appropriate White Pages or alphabetical directories

B. Upon AWS's request BellSouth will include AWS's subscriber listings for any of AWS's subscribers requesting the same in BellSouth's Directory Assistance databases and BellSouth will not charge AWS to maintain the Directory Assistance database. The Parties will cooperate with each other in formulating appropriate procedures regarding lead time, timeliness, format and content of listing information.

C. Upon AWS's request, BellSouth will provide AWS a magnetic tape or computer disk containing the proper format for submitting subscriber listings. AWS will provide BellSouth with its directory listings and daily updates to those listings, including new, changed, and deleted listings, in an industry-accepted format.

D. BellSouth and BAPCO will accord AWS's directory listing information the same level of confidentiality which BellSouth and BAPCO accords its own directory listing information, and BellSouth shall limit access to AWS's customer proprietary confidential directory information to those BellSouth or BAPCO employees who are involved in the preparation of listings.

E. Additional listings and optional listings may be provided by BellSouth at the rates set forth in the General Subscriber Services Tariff as the tariff is amended from time to time during the term of this Agreement.

## **XII. Access to Telephone Numbers**

AWS is responsible for interfacing with the North American Numbering Plan administrator for all matters dealing with dedicated NXXs. BellSouth will cooperate with AWS in the provision of shared NXXs where BellSouth is the service provider

## **XIII. Local Number Portability**

A. The Permanent Number Portability (PNP) database supplies routing numbers for calls involving numbers that have been ported from one local service provider to another. PNP is currently being worked in industry forums. The results of these forums will dictate the industry direction of PNP. BellSouth will provide access to the PNP database at rates, terms and conditions as set forth by BellSouth and in accordance with an effective FCC or Commission directive.

B. BellSouth and AWS agree to continue working cooperatively to meet mandated wireless number portability including the negotiation of an attachment to this Agreement, if necessary, and cooperative testing necessary to allow both Parties to meet mandated dates.

#### **XIV. Access to Signaling and Signaling Databases**

A. BellSouth will offer to AWS use of its signaling network and signaling databases on an unbundled basis at BellSouth's published tariffed rates. Signaling functionality will be available with A-link, B-link and D-link connectivity.

B. Where interconnection is via B-link or D-link connections, charges for the SS7 interconnection elements are as follows: 1) Port Charge - BellSouth shall not bill an STP port charge nor shall BellSouth pay a port charge; 2) SS7 Network Usage - BellSouth shall bill its tariffed usage charge and shall pay usage billed by the AWS at rates not to exceed those charged by BellSouth; 3) SS7 Link - BellSouth will bill its tariffed charges for only two (2) links of each quad ordered. Application of these charges in this manner is designed to reflect the reciprocal use of the Parties' signaling networks. Where interconnection is via A-link connections, charges for the SS7 interconnection elements are as follows: 1) Port Charge - BellSouth shall bill its tariffed STP port charge but shall not pay a termination charge at the AWS's end office; 2) SS7 Network Usage - BellSouth shall bill its tariffed usage charge but shall not pay for any usage; 3) SS7 Link - BellSouth shall bill its tariffed charges for each link in the A-link pair but shall not pay AWS for any portion of those links.

#### **XV. Network Design and Management**

##### **A. General**

1. The Parties will work cooperatively to install and maintain reliable inter-connected telecommunications networks. BellSouth will provide public notice of changes (via the website at: <http://interconnection.bellsouth.com/notifications/index.html> as same may be changed from time to time) and the information necessary for the transmission and routing of services using its local exchange facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks.

2. The interconnection of all networks will be based upon accepted industry/national guidelines for transmission standards and traffic blocking criteria. The Parties agree to provide at least a P.01 level of service and to work cooperatively in the placement and/or removal of interconnection facilities.

3. The Parties will work cooperatively to apply sound network management principles by invoking appropriate network management controls to alleviate or prevent network congestion.

4. Neither Party intends to charge rearrangement, reconfiguration, disconnection, termination or other non-recurring fees that may be associated with the initial reconfiguration of either Party's network interconnection arrangement contained in this Agreement. However, the interconnection reconfigurations will have to be considered individually as to the application of a charge. Notwithstanding the foregoing, the Parties do intend to charge non-recurring fees for any additions to, or added capacity to, any facility or trunk purchased. Parties who initiate SS7 STP changes may be charged authorized non-recurring fees from the appropriate tariffs.

5. The Parties will provide Common Channel Signaling (CCS) information to one another, where available and technically feasible, in conjunction with all traffic in order to enable full interoperability of CLASS features and functions except for call return. All CCS signaling parameters will be provided, including automatic number identification (ANI), originating line information (OLI) calling party category, charge number, etc. All privacy indicators will be honored, and the Parties agree to cooperate on the exchange of Transactional Capabilities Application Part (TCAP) messages to facilitate full interoperability of CCS-based features between the respective networks.

6. For network expansion, the Parties will review engineering requirements on a quarterly basis and establish forecasts for trunk utilization. New trunk groups will be implemented as stated by engineering requirements for both Parties.

## **B. Provisioning**

1. The ordering and provisioning of all services purchased under this agreement from BellSouth by AWS shall be as set forth in the BellSouth Telecommunications Wireless Customer Guide ([www.interconnection-bellsouth.com](http://www.interconnection-bellsouth.com)) as that guide is amended by BellSouth, from time to time, during the term of this Agreement.

2. Due dates for the installation or conversion of CMRS interconnection facilities covered by this Agreement shall be based on BellSouth's standard intervals or mutual agreement of the Parties in accordance with the availability of CMRS interconnection facilities and equipment.

3. BellSouth will continue to work to test and turn up interconnection facilities covered by this Agreement by the agreed-upon due dates. Should AWS be dissatisfied by BellSouth's provisioning performance, AWS representatives may contact the appropriate BellSouth managers listed in the Escalation Lists section of BellSouth's Wireless Provider Home page, found at: (<http://interconnection.bellsouth.com/main/wireless.html>). BellSouth will strive to



maintain its relationships with AWS that lead to rapid resolution of any provisioning issues that may arise. BellSouth will continue to provide a monthly report of its performance in meeting due dates to AWS.

4. In accordance with standard BellSouth procedures, BellSouth will complete orders for interconnection facilities and begin billing either (a) when AWS accepts the service requested, or (b) on the due date if AWS has not accepted the service, unless an extension of the original due date is negotiated between the Parties.

5. Orders from AWS to BellSouth to establish, add, change or disconnect Type 2A, Type 2B, or Type 1 Interconnection trunks shall be processed by use of a Wireless Service Request (WSR), an Access Service Request (ASR), or other future appropriate document using an electronic interface or by facsimile transmission. With regard to any electronic interface BellSouth may use, BellSouth will provide AWS (i) reasonable advance notice of system changes or replacements, (ii) documentation of how the changes or replacements affect AWS's use of the resulting system, and (iii) a reasonable number of training opportunities regarding any such changes or replacements.

6. BellSouth will provide Design Layout Records to AWS by mail, facsimile or electronic transmission.

7. The BellSouth Wireless Provisioning Center will contact the AWS installation contact on interconnection trunk orders in order to complete installation work on the due date of the order.

**C. Outages.** In the event of an outage or trouble in any arrangement, facility, or service being provided by a Party hereunder, the providing Party shall follow procedures for isolating and clearing the outage or trouble that are no less favorable than those that apply to any other similarly situated telecommunications carrier whose network is connected to that of the providing Party with the exception of any such telecommunications carrier which purchases additional premium service quality. The Parties may agree to modify those procedures from time to time based on their experience with comparable Interconnection arrangements with other telecommunications carriers. If AWS purchases services from BellSouth under applicable tariffs and there is a service interruption with respect to which there is an applicable credit allowance under such tariff, the credit allowance to AWS shall be in accordance with the terms of such tariff.

**D.** Each Party shall make available a network management contact 24x7 to facilitate trouble reporting and respond to other network problems. Each Party shall advise the other of any critical nature of inoperative facilities, service or arrangement and any need for expedited clearance of the trouble.

As of the Effective Date of this Agreement, but subject to change, such contact information is:

AWS Contact: Network Operations Center 1-800-832-6662

BellSouth Contact:

- a. The initial contact number is 1-800-517-3435,
- b. The duty pager is: 800-946-4646 PIN 1823414

Initial contact numbers and escalation lists may be found at <http://interconnection.bellsouth.com/main/maintpt2pt.html>.

#### **XVI. Auditing Procedures**

Upon thirty (30) days written notice, each Party must provide the other the ability and opportunity to conduct an annual audit to ensure the proper billing of traffic between the Parties. The Parties will retain records of call detail for a minimum of nine (9) months. The audit shall be accomplished during normal business hours at an office designated by the Party being audited. Audit requests shall not be submitted more frequently than one (1) time per calendar year. Audits shall be performed by a mutually acceptable independent auditor paid for by the Party requesting the audit. The various percents shall be adjusted based upon the audit results and shall apply to the usage for the quarter the audit was completed, the usage for the quarter prior to the completion of the audit, and to the usage for the two (2) quarters following the completion of the audit

#### **XVII. Liability and Indemnification**

A. EXCEPT AS OTHERWISE PROVIDED FOR IN THIS AGREEMENT OR IN THIS SECTION XVII, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, RELIANCE, PUNITIVE, OR SPECIAL DAMAGES SUFFERED BY THE OTHER PARTY (INCLUDING WITHOUT LIMITATION DAMAGES FOR HARM TO BUSINESS, LOST REVENUES, LOST SAVINGS, OR LOST PROFITS SUFFERED BY THE OTHER PARTY), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, WARRANTY, STRICT LIABILITY, OR TORT, INCLUDING WITHOUT LIMITATION NEGLIGENCE OF ANY KIND WHETHER ACTIVE OR PASSIVE, AND REGARDLESS OF WHETHER THE PARTIES KNEW OF THE POSSIBILITY THAT SUCH DAMAGES COULD RESULT

B. Neither Party shall be liable to the other for any act or omission of any other telecommunications carrier providing a portion of a service under this Agreement, nor shall either Party hold liable any other telecommunications

carrier providing a portion of a service under this Agreement for any act or omission of BellSouth or AWS.

C. Neither Party is liable for damages to the other Party's POI nor end user's premises resulting from the furnishing of a service, including but not limited to the installation and removal of equipment and associated wiring, unless the damage is caused by a Party's gross or willful negligence or intentional misconduct.

D. Each Party shall be indemnified, defended and held harmless by the other Party against any claim, loss or damage arising from the other Party's acts or omissions under this Agreement, including without limitation: 1) claims for libel, slander, invasion of privacy, or infringement of copyright arising from the other Party's own communications; 2) claims for patent infringement arising from combining or using the service furnished by either Party in connection with facilities or equipment furnished by either Party or either Party's end user; 3) any claim, loss, or damage claimed by a customer of either Party arising from services provided by the other Party under this Agreement; or 4) all other claims arising out of an act or omission of the other Party in the course of using services provided pursuant to this Agreement. Each Party's liability to the other for any loss, cost, claim, injury or liability or expense, including reasonable attorney's fees relating to or arising out of any negligent act or omission in its performance of this Agreement whether in contract or in tort, shall be limited to a credit for the actual cost of the services or functions not performed or improperly performed.

E. A Party may, in its sole discretion, provide in its tariffs and contracts with its end user and third parties that relate to any service, product or function provided or contemplated under this Agreement, that to the maximum extent permitted by applicable law, such Party shall not be liable to any end user or third Party for (1) any loss relating to or arising out of this Agreement, whether in contract, tort or otherwise, that exceeds the amount such Party would have charged that applicable person for the service, product or function that gave rise to such loss and (2) consequential damages. To the extent that a Party elects not to place in its tariffs or contracts such limitations of liability, and the other Party incurs a loss as a result thereof, such Party shall indemnify and reimburse the other Party for that portion of the loss that would have been limited had the first Party included in its tariffs and contracts the limitations of liability that such other Party included in its own tariffs at the time of such loss.

F. Under no circumstance shall a Party be responsible or liable for indirect, incidental, or consequential damages, including, but not limited to, economic loss or lost business or profits, damages arising from the use or performance of equipment or software, or the loss of use of software or equipment, or accessories attached thereto, delay, error, or loss of data. In connection with this limitation of liability, each Party recognizes that the other Party may, from time to time, provide advice, make recommendations, or supply other analyses related to the services, or facilities described in this Agreement, and, while each

Party shall use diligent efforts in this regard, the Parties acknowledge and agree that this limitation of liability shall apply to provision of such advice, recommendations, and analyses.

**G.** The Party providing services hereunder, its affiliates and its parent company, shall be indemnified, defended and held harmless by the Party receiving services hereunder against any claim, loss or damage arising from the receiving company's use of the services provided under this Agreement pertaining to 1) claims for libel, slander or invasion of privacy arising from the content of the receiving company's own communications, or 2) any claim, loss or damage claimed by the end user of the Party receiving services arising from such company's use or reliance on the providing company's services, actions, duties, or obligations arising out of this Agreement.

**H.** Notwithstanding any other provision of this Agreement, claims for damages by AWS or any other person or entity resulting from the gross negligence or willful misconduct of BellSouth shall not be subject to such limitation of liability

**I.** Notwithstanding any other provision of this Agreement, claims for damages by BellSouth or any other person or entity resulting from the gross negligence or willful misconduct of AWS shall not be subject to such limitation of liability.

**J.** Neither Party assumes liability for the accuracy of the data provided to it by the other Party.

**K.** No license under patents (other than the limited license to use) is granted by either Party or shall be implied or arise by estoppel, with respect to any service offered pursuant to this Agreement.

**L.** Each Party's failure to provide or maintain services offered pursuant to this Agreement shall be excused by labor difficulties, governmental orders, civil commotion, criminal actions taken against them, acts of God and other circumstances beyond their reasonable control.

**M.** EXCEPT AS SPECIFICALLY PROVIDED TO THE CONTRARY IN THIS AGREEMENT, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES TO THE OTHER PARTY CONCERNING THE SPECIFIC QUALITY OF ANY SERVICES, OR FACILITIES PROVIDED UNDER THIS AGREEMENT. THE PARTIES DISCLAIM, WITHOUT LIMITATION, ANY WARRANTY OR GUARANTEE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR FROM USAGES OF TRADE.

**N.** The obligations of the Parties contained within this Section shall survive the expiration of this Agreement.

#### **XVIII. Modification of Agreement**

**A.** BellSouth shall make available, pursuant to 47 USC § 252 and the FCC rules and regulations regarding such availability, to AWS any interconnection, service, or network element provided under any other agreement filed and approved pursuant to 47 USC § 252. The Parties shall adopt all rates, terms and conditions concerning such other interconnection, service, or network element and any other rates, terms and conditions that are interrelated or were specifically enumerated as negotiated in exchange for or in conjunction with the interconnection, service or network element being adopted. The adopted interconnection, service, or network element and agreement shall apply to the same states as such other agreement and for the identical term of such other agreement.

**B.** If either Party changes its name or makes changes to its company structure or identity due to a merger, acquisition, transfer or any other reason, it is the responsibility of such Party to notify the other Party of said change and request that an amendment to this Agreement, if necessary, be executed to reflect said change.

**C.** No modification, amendment, supplement to, or waiver of the Agreement or any of its provisions shall be effective and binding upon the Parties unless it is made in writing and duly signed by the Parties.

**D.** Execution of this Agreement by either Party does not confirm or infer that the executing Party agrees with any decision(s) issued pursuant to the Telecommunications Act of 1996 and the consequences of those decisions on specific language in this Agreement. Neither Party waives its rights to appeal or otherwise challenge any such decision(s) and each Party reserves all of its rights to pursue any and all legal and/or equitable remedies, including appeals of any such decision(s).

**E.** In the event that any effective legislative, regulatory, judicial or other legal action materially affects any material terms of this Agreement, or the ability of AWS or BellSouth to perform any material terms of this Agreement, AWS or BellSouth may, on thirty (30) days' written notice request that such terms be renegotiated, and the Parties shall renegotiate in good faith such mutually acceptable new terms as may be required. In the event that such new terms are not renegotiated within ninety (90) days after such notice, the dispute shall be referred to the Dispute Resolution procedure set forth in Section XXI.

**F.** If any provision of this Agreement, or the application of such provision to either Party or circumstance, shall be held invalid, the remainder of the Agreement,

or the application of any such provision to the Parties or circumstances other than those to which it is held invalid, shall not be effective thereby, provided that the Parties shall attempt to reformulate such invalid provision to give effect to such portions thereof as may be valid without defeating the intent of such provision.

## **XIX. Taxes and Fees**

**A. Definition:** For purposes of this Section, the terms "taxes" and "fees" shall include but not be limited to federal, state or local sales, use, excise, gross receipts or other taxes or tax-like fees of whatever nature and however designated (including tariff surcharges and any fees, charges or other payments, contractual or otherwise, for the use of public streets or rights of way, whether designated as franchise fees or otherwise) which are imposed, or sought to be imposed, on or with respect to the services furnished hereunder or measured by the charges or payments therefor.

**B. Taxes And Fees Imposed Directly On Either Providing Party Or Purchasing Party.**

1. Taxes and fees imposed on the providing Party, which are neither permitted nor required to be passed on by the providing Party to its end user, shall be borne and paid by the providing Party.

2. Taxes and fees imposed on the purchasing Party, which are not required to be collected and/or remitted by the providing Party, shall be borne and paid by the purchasing Party.

**C. Taxes And Fees Imposed On Purchasing Party But Collected And Remitted By Providing Party.**

1. Taxes and fees imposed on the purchasing Party shall be borne by the purchasing Party, even if the obligation to collect and/or remit such taxes or fees is placed on the providing Party.

2. To the extent permitted by applicable law, any such taxes and fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing Party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing Party at the time that the respective service is billed.

3. If the purchasing Party determines that in its opinion any such taxes or fees are not payable, the providing Party shall not bill such taxes or fees to the purchasing Party if the purchasing Party provides written certification, reasonably satisfactory to the providing Party, stating that it is exempt or otherwise not subject to the tax or fee, setting forth the basis

therefor, and satisfying any other requirements under applicable law. If any authority seeks to collect any such tax or fee that the purchasing Party has determined and certified not to be payable, or any such tax or fee that was not billed by the providing Party, the purchasing Party shall have the right, at its own expense, to contest the same in good faith, in its own name or on the providing Party's behalf. In any such contest, the purchasing Party shall promptly furnish the providing Party with copies of all filings in any proceeding, protest, or legal challenge, all rulings issued in connection therewith, and all correspondence between the purchasing Party and the governmental authority.

4. In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing Party during the pendency of such contest, the purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.

5. If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing Party shall pay such additional amount, including any interest and penalties thereon

6. Notwithstanding any provision to the contrary, the purchasing Party shall protect, indemnify and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any such tax or fee, interest or penalties thereon, or other charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the providing Party in connection with any claim for or contest of any such tax or fee.

7. Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a governmental authority; such notice to be provided at least ten (10) days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) days after receipt of such assessment, proposed assessment or claim.

8. The purchasing Party shall have the right, at its own expense, to claim a refund or credit, in its own name or on the providing Party's behalf, of any such tax or fee that it determines to have paid in error, and the purchasing Party shall be entitled to any recovery thereof.

**D. Taxes And Fees Imposed On Providing Party But Passed On To Purchasing Party**

1. Taxes and fees imposed on the providing Party, which are permitted or required to be passed on by the providing Party to its customer, shall be borne by the purchasing Party.
2. To the extent permitted by applicable law, any such taxes and fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing Party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing Party at the time that the respective service is billed.
3. If the purchasing Party disagrees with the providing Party's determination as to the application or basis of any such tax or fee, the Parties shall consult with respect to the imposition and billing of such tax or fee and with respect to whether to contest the imposition of such tax or fee. Notwithstanding the foregoing, the providing Party shall retain ultimate responsibility for determining whether and to what extent any such taxes or fees are applicable, and the purchasing Party shall abide by such determination and pay such taxes or fees to the providing Party. The providing Party shall further retain ultimate responsibility for determining whether and how to contest the imposition of such taxes or fees; provided, however, that any such contest undertaken at the request of the purchasing Party shall be at the purchasing Party's expense.
4. If, after consultation in accordance with the preceding paragraph, the purchasing Party does not agree with the providing Party's final determination as to the application or basis of a particular tax or fee, and if the providing Party, after receipt of a written request by the purchasing Party to contest the imposition of such tax or fee with the imposing authority, fails or refuses to pursue such contest or to allow such contest by the purchasing Party, the purchasing Party may utilize the Dispute Resolution process outlined in Section XXI of this Agreement. Utilization of the Dispute Resolution process shall not relieve the purchasing Party from liability for any tax or fee billed by the providing Party pursuant to this subsection during the pendency of such Dispute Resolution proceeding. In the event that the purchasing Party prevails in such Dispute Resolution proceeding, it shall be entitled to a refund in accordance with the final decision therein. Notwithstanding the foregoing, if at any time prior to a final decision in such Dispute Resolution proceeding the providing Party initiates a contest with the imposing authority with respect to any of the issues involved in such Dispute Resolution proceeding, the Dispute Resolution proceeding shall be dismissed as to such common issues and the final decision rendered in the contest with the imposing authority shall control as to such issues.



5. In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing Party during the pendency of such contest, the purchasing Party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.

6. If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing Party shall pay such additional amount, including any interest and penalties thereon.

7. Notwithstanding any provision to the contrary, the purchasing Party shall protect, indemnify and hold harmless (and defend at the purchasing Party's expense) the providing Party from and against any such tax or fee, interest or penalties thereon, or other charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the providing Party in connection with any claim for or contest of any such tax or fee.

8. Each Party shall notify the other Party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a governmental authority; such notice to be provided, if possible, at least ten (10) days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) days after receipt of such assessment, proposed assessment or claim.

E. Mutual Cooperation. In any contest of a tax or fee by one Party, the other Party shall cooperate fully by providing records, testimony and such additional information or assistance as may reasonably be necessary to pursue the contest. Further, the other Party shall be reimbursed for any reasonable and necessary out-of-pocket copying and travel expenses incurred in assisting in such contest.

## **XX. Treatment of Proprietary and Confidential Information**

A. It may be necessary for BellSouth and AWS, each as the "Discloser," to provide to the other Party, as "Recipient," certain proprietary and confidential information (including trade secret information) including but not limited to technical, financial, marketing, staffing and business plans and information, strategic information, proposals, request for proposals, specifications, drawings, maps, prices, costs, costing methodologies, procedures, processes, business systems, software programs, techniques, customer account data, call detail records and like information (collectively the "Information"). All such Information conveyed in writing or other tangible form shall be clearly marked with a confidential or proprietary legend. Information conveyed orally by the Discloser to Recipient shall be designated as proprietary and confidential at the time of

such oral conveyance, shall be reduced to writing by the Discloser within forty-five (45) days thereafter, and shall be clearly marked with a confidential or proprietary legend.

**B. Use and Protection of Information.** Recipient agrees to protect such Information of the Discloser provided to Recipient from whatever source from distribution, disclosure or dissemination to anyone except employees of Recipient with a need to know such Information solely in conjunction with Recipient's analysis of the Information and for no other purpose except as authorized herein or as otherwise authorized in writing by the Discloser. Recipient will not make any copies of the Information inspected by it.

**C. Exceptions.** Recipient will not have an obligation to protect any portion of the Information which:

(a) is made publicly available by the Discloser or lawfully by a nonparty to this Agreement; (b) is lawfully obtained by Recipient from any source other than Discloser; (c) is previously known to Recipient without an obligation to keep it confidential; or (d) is released from the terms of this Agreement by Discloser upon written notice to Recipient.

**D.** Recipient agrees to use the Information solely for the purposes of negotiations pursuant to 47 U.S.C. 251 or in performing its obligations under this Agreement and for no other entity or purpose, except as may be otherwise agreed to in writing by the Parties. Nothing herein shall prohibit Recipient from providing information requested by the Federal Communications Commission or a state regulatory agency with jurisdiction over this matter, or to support a request for arbitration or an allegation of failure to negotiate in good faith.

**E.** Recipient agrees not to publish or use the Information for any advertising, sales promotions, press releases, or publicity matters that refer either directly or indirectly to the Information or to the Discloser or any of its affiliated companies.

**F.** The disclosure of Information neither grants nor implies any license to the Recipient under any trademark, patent, copyright, or application which is now or may hereafter be owned by the Discloser

**G. Survival of Confidentiality Obligations.** The Parties' rights and obligations under this Section XX shall survive and continue in effect until two (2) years after the expiration or termination date of this Agreement with regard to all Information exchanged during the term of this Agreement. Thereafter, the Parties' rights and obligations hereunder survive and continue in effect with respect to any Information that is a trade secret under applicable law.

## **XXI. Dispute Resolution**

Except as otherwise stated in this Agreement, if any dispute arises as to the interpretation of any provision of this Agreement or as to the proper implementation of this Agreement, the Parties will initially refer the issue to the appropriate company representatives. If the issue is not resolved within thirty (30) days, upon the mutual agreement of the Parties the dispute may be referred to an alternative dispute resolution process agreed upon by the Parties. If the Parties do not agree to use an alternative dispute resolution process, then either Party may petition the Commission for a resolution of the dispute. However, each Party reserves the right to seek judicial review of any ruling made by the Commission concerning this Agreement.

## **XXII. Limitation of Use**

This Agreement shall not be proffered by either Party in another jurisdiction as evidence of any concession or as a waiver of any position taken by the other Party in that jurisdiction or for any other purpose.

## **XXIII. Waivers**

Any failure by either Party to insist upon the strict performance by the other Party of any of the provisions of this Agreement shall not be deemed a waiver of any of the provisions of this Agreement, and each Party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Agreement.

## **XXIV. Assignment**

No Party may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other Party, which will not be unreasonably withheld.

## **XXV. Amendment**

This Agreement may not be amended in any way except upon written consent of the Parties.

## **XXVI. Severability**

In the event that any provision of this Agreement shall be held invalid, illegal, or unenforceable, it shall be severed from the Agreement and the remainder of this Agreement shall remain valid and enforceable and shall continue in full force and effect, provided however, that if any severed provisions of this Agreement are essential to any Party's ability to continue to perform its material obligations hereunder, the Parties shall immediately begin negotiations of new provisions to replace the severed provisions.

## **XXVII. Survival**

Any liabilities or obligations of a Party for acts or omissions prior to the cancellation or termination of this Agreement, any obligation of a Party under the provisions regarding indemnification, confidential information, limitations of liability and any other provisions of this Agreement which, by their terms, are contemplated to survive (or be performed after) termination of this Agreement, shall survive cancellation or termination thereof.

## **XXVIII. Governing Law**

This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the state wherein the underlying facilities, services, or dispute arose, without regard to such state's conflict of laws principles, and the Communications Act of 1934 as amended by the Act.

## **XXIX. Arm's Length Negotiations**

This Agreement was executed after arm's length negotiations between the undersigned Parties and reflects the conclusion of the undersigned that this Agreement is in the best interests of all Parties.

## **XXX. Filing of Agreement**

Upon execution of this Agreement it shall be filed with the appropriate Commission pursuant to the requirements of Section 252 of the Act. If the Commission imposes any filing or public interest notice fees regarding the filing or approval of the Agreement, the Parties agree to share equally in the costs of such fees.

## **XXXI. Notices**

A. Every notice, consent, approval, or other communications required or contemplated by this Agreement shall be in writing and shall be delivered in person, via overnight mail, or given by postage prepaid mail, address to:

**BellSouth Telecommunications, Inc.**  
675 W Peachtree St N E  
Suite 4300  
Atlanta, Georgia 30375  
Attn. Legal Dept "Wireless" Attorney

**AT&T Wireless Services, Inc.**  
8645 154th Avenue  
Redmond, WA 98052  
Attn Jill Mounsey  
Director – Enterprise Support  
Wireless Network Services

**Copy to:**  
Floyd R Self, Esq  
Messer, Caparello & Self  
215 South Monroe St , Suite 701  
Tallahassee, FL 32301

or at such other address as the intended recipient previously shall have designated by written notice to the other Party.

B. Where specifically required, notices shall be by certified or registered mail. Unless otherwise provided in this Agreement, notice by mail shall be effective on the date it is officially recorded as delivered by return receipt or equivalent, and in the absence of such record of delivery, it shall be presumed to have been delivered the fifth day, or next business day after the fifth day, after it was deposited in the mails; and by overnight mail, the day after being sent.

### XXXII. Entire Agreement

This Agreement and its Attachments, incorporated herein by this reference, sets forth the entire understanding and supersedes prior agreements between the Parties relating to the subject matter contained herein and merges all prior discussions between them, and neither Party shall be bound by any definition, condition, provision, representation, warranty, covenant or promise other than as expressly stated in this Agreement or as is contemporaneously or subsequently set forth in writing and executed by a duly authorized officer or representative of the Party to be bound thereby. In the event of any conflict between the term(s) of this Agreement and those of an applicable tariff, the terms of this Agreement shall control.

**BellSouth Telecommunications, Inc.**

By: 

Randy J. Ham  
Name

Managing Director -  
Wireless Interconnection  
Title

12/24/01  
Date

**AT&T Wireless Services, Inc.**

By: 

Kurt C. Maass  
Name

Vice President-Enterprise Support  
Title

12/21/01  
Date

## **Attachment B-1**

### **CMRS Local Interconnection Rates**

**(All rates are Per Minute of Use and include internet traffic)**

**Effective Date through December 14, 2001**

**All BellSouth States**

Type 1 (End Office Switched)	\$ .0015
Type 2A (Tandem Switched)	\$ .0015
Type 2B (Dedicated End Office)	\$ .0015

**December 15, 2001 through June 14, 2003**

**All BellSouth States**

Type 1 (End Office Switched)	\$ .0010
Type 2A (Tandem Switched)	\$ .0010
Type 2B (Dedicated End Office)	\$ .0010

**June 15, 2003 through June 14, 2004**

**All BellSouth States**

**(If such dates are applicable during the term of this Agreement)**

Type 1 (End Office Switched)	\$ .0007
Type 2A (Tandem Switched)	\$ .0007
Type 2B (Dedicated End Office)	\$ .0007

## Attachment B-2

### **Type 1, Type 2A, & 2B Mobile To Land Trunk Usage** (All Rates are Per Voice Grade Trunk)

Mobile originated Local Traffic over BellSouth Type 1, Type 2A, and Type 2B interconnection trunks, which terminate at BellSouth tandems (local or access) and/or BellSouth end offices, without recording capability, may be billed in either of two ways. AWS may choose to either be billed a surrogate usage rate, on a per voice grade trunk basis, for mobile originated Local Traffic completed over one-way or two-way trunks or may choose to provide traffic data in a BellSouth prescribed format to be used for billing purposes. AWS provided Local Traffic data will be billed at the rates prescribed below in this Attachment B-2. If AWS chooses to provide Local Traffic data, then the detail level provided must be in accordance with BellSouth requirements. Local Traffic data must be provided no more than thirty (30) days in arrears from the close of the normal billing cycle. If the Local Traffic data is not received in the BellSouth prescribed format in the specified time period, the surrogate usage rate will be applied. Surrogate Usage for Local Traffic, which terminates in BellSouth's local service area, shall be billed at a per voice grade trunk level rate as follows:

	<u>Type 1</u>	<u>TYPE 2A</u>	<u>Type 2B</u>
All BellSouth States			
Effective Date thru December 14, 2001	\$19.50	\$19.50	\$19.50
December 15, 2001 thru June 14, 2003	\$13.00	\$13.00	\$13.00
June 15, 2003 thru June 14, 2004 (If such dates are applicable during the term of this Agreement)	\$9.10	\$9.10	\$9.10

4/28/04

TRA Consolidated Docket No. 03-00585  
AWS Response to Rural Coalition Discovery Request  
Request No. 2



## AGREEMENT

**THIS AGREEMENT** is made by and between BellSouth Telecommunications, Inc , ("BellSouth"), a Georgia corporation, and TeleCorp Communications, Inc , ("Carrier") a Delaware corporation and shall be deemed effective as of November 24, 1998. This agreement may refer to either BellSouth or Carrier or both as a "party" or "parties."

## WITNESSETH

WHEREAS, BellSouth is a local exchange telecommunications company authorized to provide telecommunications services in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, and

WHEREAS, Carrier is a Commercial Mobile Radio Service ("CMRS") provider licensed by the Federal Communications Commission ("FCC") to provide CMRS in the states of Louisiana and Tennessee, and

WHEREAS, the parties wish to interconnect their facilities and exchange traffic for the purposes of fulfilling their obligations pursuant to sections 251, 252 and 271 of the Telecommunications Act of 1996 and to replace any and all other prior agreements, both written and oral,

**NOW THEREFORE**, in consideration of the mutual agreements contained herein, BellSouth and Carrier agree as follows:

### I. Definitions

**A. Commission** is defined as the appropriate regulatory agency in each of BellSouth's nine state region: Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee

**B. Intermediary function** is defined as the delivery, pursuant to an appropriate agreement or Commission directive, of local or toll (using traditional landline definitions) traffic to or from a local exchange carrier other than BellSouth, an ALEC; or another telecommunications company such as a CMRS provider other than Carrier through the network of BellSouth or Carrier from or to an end user of BellSouth or Carrier

**C. Local Traffic** is defined for purposes of reciprocal compensation under this Agreement as: (1) any telephone call that originates on the network of Carrier within a Major Trading Area ("MTA") and terminates on the network of BellSouth in the same MTA and within the Local Access and Transport Area ("LATA") in which the call is handed off from Carrier to BellSouth, and (2) any telephone call that originates on the network of BellSouth that is handed off to Carrier in the same LATA in which the call originates and terminates on the network of Carrier in the MTA in which the call is handed off from BellSouth to Carrier. For purposes of this Agreement, LATA shall have the same definition as that contained in the Telecommunications Act of 1996, and MTA shall have the same definition as that contained in the FCC's rules.

**D. Local Interconnection** is defined for purposes of this Agreement as 1) the delivery of local traffic to be terminated on each party's local network so that end users of either party have the ability to reach end users of the other party without the use of any access code or substantial delay in the processing of the call; and 2) the LEC unbundled network features, functions, and capabilities set forth in this Agreement.

**E. Percent of Interstate Usage (PIU)** is defined as a factor to be applied to that portion of Toll Traffic comprised of interstate interMTA minutes of use in order to designate those minutes that should be rated as interstate access services minutes of use. The numerator includes all interstate interMTA minutes of use, less any interstate minutes of use for Terminating Party Pays services, such as 800 Services. The denominator includes all interMTA minutes of use less all minutes attributable to terminating party pays services.

**F. Percent Local Usage (PLU)** is defined as a factor to be applied to terminating minutes of use. The numerator shall include all "nonintermediary" Local minutes of use. The denominator is the total minutes of use including Local and Toll.

**G. Telecommunications Act of 1996 ("Act")** means Public Law 104-104 of the United States Congress effective February 8, 1996. The Act amended the Communications Act of 1934 (47, U.S.C. Section 1 et seq.).

**H. Toll Traffic** is defined as all traffic that is not Local Traffic or access services, as described in section V (F) of this Agreement.

**I. Affiliate** is as defined in the Communications Act of 1934, as amended.

## **II. Purpose**

The parties desire to enter into this Agreement consistent with all applicable federal, state and local statutes, rules and regulations in effect as of the date of its execution including, without limitation, the Act at Sections 251, 252 and 271 and to replace any and all other prior agreements, both written and oral, concerning the terms

and conditions of interconnection. The access and interconnection obligations contained herein enable Carrier to provide CMRS in those areas where it is authorized to provide such services within the nine state region of BellSouth.

### **III. Term of the Agreement**

The term of this Agreement shall be two years, beginning on the effective date and shall automatically renew for additional six (6) month terms unless either party provides written notice of termination to the other party at least sixty (60) days prior to the end of the then-current term.

### **IV. Local Interconnection**

**A.** The delivery of Local Traffic between the parties shall be reciprocal and compensation will be mutual according to the provisions of this Agreement. The parties agree that the exchange of traffic on BellSouth's interLATA EAS routes shall be considered as Local Traffic and compensation for the termination of such traffic shall be pursuant to the terms of this section. EAS routes are those exchanges within an exchange's Basic Local Calling Area, as defined in Section A3 of BellSouth's General Subscriber Services Tariff.

**B.** Each party will pay the other for terminating its Local Traffic on the other's network the local interconnection rates as set forth in Attachment B-1, by this reference incorporated herein. The amount that each party shall pay to the other for the delivery of Local Traffic shall be calculated by multiplying the applicable rate in Attachment B1 for each type of call by the total minutes of use each month for each such type of call. Charges for terminating traffic will be in accumulated in conversation minutes, whole and partial, measured from receipt of answer supervision to receipt of disconnect supervision and rounded up to the next whole minute at the close of the billing period. Due to billing system limitations, mutually agreed upon factors executed by separate agreement will be applied to the total monthly minutes of use to derive the total minutes of use for each call type. The charges for local interconnection are to be billed and paid monthly. Late payment fees, not to exceed 1 1/2% per month after the due date may be assessed, if interconnection charges are not paid, within thirty (30) days of the due date of the monthly bill.

### **V. Methods of Interconnection**

**A.** The parties agree that there are three appropriate methods of interconnecting facilities: (1) virtual collocation where physical collocation is not practical for technical reasons or because of space limitations, (2) physical collocation; and (3) interconnection via purchase of facilities from either party by the other party.

Rates and charges for collocation are set forth in Attachment C-13, incorporated herein by this reference. Type 1, Type 2A and Type 2B interconnection arrangements described in BellSouth's General Subscriber Services Tariff, Section A35, or, in the case of North Carolina, in the North Carolina Connection and Traffic Interchange Agreement effective June 30, 1994, as amended, may be purchased pursuant to this Agreement provided, however, that such interconnection arrangements shall be provided at the rates, terms and conditions set forth in this Agreement.

**B.** The parties agree to accept and provide any of the preceding methods of interconnection. Reciprocal connectivity shall be established to at least one BellSouth access tandem within every LATA Carrier desires to serve, or Carrier may elect to interconnect directly at an end office for interconnection to end users served by that end office. Such interconnecting facilities shall conform, at a minimum, to the telecommunications industry standard of DS-1 pursuant to Bellcore Standard No. TR-NWT-00499. Signal transfer point, Signaling System 7 ("SS7") connectivity is required at each interconnection point after Carrier implements SS7 capability within its own network. Such SS7 connectivity may be provided, at Carrier's sole discretion, either directly by Carrier or by a third-party provider designated by Carrier to provide signaling capabilities. BellSouth will provide out-of-band signaling using Common Channel Signaling Access Capability where technically and economically feasible, in accordance with the technical specifications set forth in the BellSouth Guidelines to Technical Publication, TR-TSV-000905. The parties agree that their facilities shall provide the necessary on-hook, off-hook answer and disconnect supervision and shall hand off calling party number ID when technically feasible. The parties further agree that in the event a party interconnects via the purchase of facilities and/or services from the other party, the appropriate intrastate tariff, as amended from time to time will apply. In the event that such facilities are used for two-way interconnection, the parties agree that the appropriate charges for such facilities will be shared by the parties based upon percentages equal to the estimated or actual percentage of traffic on such facilities.

**C.** Nothing herein shall prevent Carrier from utilizing existing collocation facilities, purchased from the interexchange tariffs, for local interconnection, provided, however, that if Carrier orders new facilities for interconnection or rearranges any facilities presently used for its alternate access business in order to use such facilities for local interconnection hereunder and a BellSouth charge is applicable thereto, BellSouth shall only charge Carrier the lower of the interstate or intrastate tariffed rate or promotional rate.

**D.** The parties agree to establish trunk groups from the interconnecting facilities of subsection (A) of this section such that each party provides a reciprocal of each trunk group established by the other party. Notwithstanding the foregoing, each party may construct its network, including the interconnecting facilities, to achieve optimum cost effectiveness and network efficiency. BellSouth's treatment of Carrier as to said charges shall be consistent with BellSouth treatment of other local exchange carriers for the same charges. Unless otherwise agreed, BellSouth will provide or bear

the cost of all trunk groups for the delivery of traffic from BellSouth to Carrier's Mobile Telephone Switching Offices within BellSouth's service territory, and Carrier will provide or bear the cost of all trunk groups for the delivery of traffic from Carrier to each BellSouth access tandem and end office at which the parties interconnect.

**E.** The parties agree to use an auditable PLU factor as a method for determining whether traffic is Local or Toll. The PLU factor will be used for traffic delivered by either party for termination on the other party's network.

**F.** When the parties provide an access service connection between an interexchange carrier ("IXC") and each other, each party will provide its own access services to the IXC. Each party will bill its own access services rates to the IXC.

**G.** The ordering and provision of all services purchased from BellSouth by Carrier shall be as set forth in the BellSouth Telecommunications Wireless Customer Guide as that guide is amended by BellSouth from time to time during the term of this Agreement.

## **VI. Toll Traffic Interconnection**

**A.** The delivery of Toll Traffic by a party to the other party shall be reciprocal and compensation will be mutual. For terminating its Toll Traffic on the other party's network, each party will pay either the access charges described in paragraph (B) hereunder or the Toll Intermediary Charges described in paragraph (D) hereunder, as appropriate.

**B.** For originating and terminating intrastate or interstate interMTA Toll Traffic, each party shall pay the other BellSouth's intrastate or interstate, as appropriate, switched network access service rate elements on a per minute of use basis. Said rate elements shall be as set out in BellSouth's Intrastate Access Services Tariff or BellSouth's Interstate Access Services Tariff as those tariffs may be amended from time to time during the term of this Agreement. The appropriate charges will be determined by the routing of the call.

**C.** The parties agree that actual traffic measurements in each of the appropriate categories is the preferred method of classifying and billing traffic. If, however, either party cannot measure traffic in each category, then the parties shall agree on a surrogate method of classifying and billing traffic, taking into consideration territory served (e.g. MTA boundaries, LATA boundaries and state boundaries) and traffic routing of the parties.

**D.** If Toll Traffic originated by a party to this Agreement is delivered by the other party for termination to the network of a nonparty telecommunications carrier ("Nonparty Carrier"), then the party performing the intermediary function will bill the other party and

the other party shall pay a \$.002 per minute intermediary charge in addition to any charges that the party performing the intermediary function may be obligated to pay to the Nonparty Carrier (collectively called "Toll Intermediary Charges"). The parties agree that the charges that the party performing the intermediary function may be obligated to pay to the Nonparty Carrier may change during the term of this Agreement and that the appropriate rate shall be the rate in effect when the traffic is terminated. The parties shall agree for purposes of this section, and subject to verification by audit what percentage of the Toll Traffic delivered to BellSouth by Carrier shall be subject to Toll Intermediary Charges. The parties agree that none of the Toll Traffic delivered to Carrier by BellSouth shall be subject to the Toll Intermediary Charges.

## **VII. Provision of Unbundled Elements**

**A.** BellSouth shall, upon request of Carrier, and to the extent technically feasible, provide to Carrier access to its Network Elements for the provision of a Carrier telecommunications service. Any request by Carrier for access to a BellSouth Network Element that is not already available shall be treated as a Network Element bona fide request. Carrier agrees to pay the cost associated with the bona fide request if Carrier cancels the request or fails to purchase the service once completed. Carrier shall provide BellSouth access to its Network Elements as mutually agreed by the parties or as required by the Commission or the FCC.

**B.** A Network Element obtained by one party from the other party under this section may be used in combination with the facilities of the requesting party only to provide a telecommunications service, including obtaining billing and collection, transmission, and routing of the telecommunications service.

## **VIII. Access To Poles, Ducts, Conduits, and Rights of Way**

BellSouth agrees to provide to Carrier, pursuant to 47 U.S.C. § 224, as amended by the Act, nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by BellSouth.

## **IX. Access to 911/E911 Emergency Network**

**A.** BellSouth and Carrier recognize that 911 and E911 services were designed and implemented primarily as methods of providing emergency services to fixed location subscribers. While BellSouth and Carrier recognize the need to provide "911-like" service to mobile subscribers, both parties recognize that current technological restrictions prevent an exact duplication of the services provided to fixed location customers. BellSouth agrees to route "911-like" calls received from Carrier to the emergency agency designated by Carrier for such calls. Carrier agrees to provide

the information necessary to BellSouth so that each call may be properly routed and contain as much pertinent information as is technically feasible

**B.** BellSouth and Carrier recognize that the technology and regulatory requirements for the provision of "911-like" service by CMRS carriers are evolving and agree to modify or supplement the foregoing in order to incorporate industry accepted technical improvements that Carrier desires to implement and to permit Carrier to comply with applicable regulatory requirements

## **X. Directory Listings**

**A.** Subject to execution of an agreement between Carrier and BellSouth's affiliate, BellSouth Advertising & Publishing Corporation, ("BAPCO"), as set forth in Attachment C-1, (1) listings shall be included in appropriate White Pages or alphabetical directories, (2) Carrier's business subscribers' listings shall also be included in appropriate Yellow Pages, or classified directories, and (3) copies of such directories shall be delivered to Carrier's subscribers.

**B.** BellSouth will include Carrier's subscriber listings in BellSouth's directory assistance databases and BellSouth will not charge Carrier to maintain the Directory Assistance database. The parties agree to cooperate with each other in formulating appropriate procedures regarding lead time, timeliness, format and content of listing information

**C.** BellSouth will provide Carrier a magnetic tape or computer disk containing the proper format for submitting subscriber listings. Carrier will provide BellSouth with its directory listings and daily updates to those listings, including new, changed, and deleted listings, in an industry-accepted format

**D.** BellSouth and BAPCO will accord Carrier's directory listing information the same level of confidentiality which BellSouth and BAPCO accords its own directory listing information, and BellSouth shall limit access to Carrier's customer proprietary confidential directory information to those BellSouth or BAPCO employees who are involved in the preparation of listings

**E.** Additional listings and optional listings may be provided by BellSouth at the rates set forth in the General Subscriber Services Tariff as the tariff is amended from time to time during the term of this Agreement

## **XI. Access to Signaling and Signaling Databases**

**A.** BellSouth will offer to Carrier use of its signaling network and signaling databases on an unbundled basis at BellSouth's published tariffed rates or at

unbundled rates that may be available through non-tariffed arrangements. Signaling functionality will be available with both A-link and B-link connectivity.

**B.** Where interconnection is via B-link connections, charges for the SS7 interconnection elements are as follows. 1) Port Charge - BellSouth shall not bill an STP port charge nor shall BellSouth pay a port charge; 2) SS7 Network Usage - BellSouth shall bill its tariffed usage charge and shall pay usage billed by the Carrier at rates not to exceed those charged by BellSouth; 3) SS7 Link - BellSouth will bill its tariffed charges for only two links of each quad ordered. Application of these charges in this manner is designed to reflect the reciprocal use of the parties' signaling networks. Where interconnection is via A-link connections, charges for the SS7 interconnection elements are as follows. 1) Port Charge - BellSouth shall bill its tariffed STP port charge but shall not pay a termination charge at the Carrier's end office; 2) SS7 Network Usage - BellSouth shall bill its tariffed usage charge but shall not pay for any usage; 3) SS7 Link - BellSouth shall bill its tariffed charges for each link in the A-link pair but shall not pay the Carrier for any portion of those links.

## **XII. Network Design and Management**

**A.** The parties agree to work cooperatively to install and maintain reliable interconnected telecommunications networks, including but not limited to, maintenance contact numbers and escalation procedures. BellSouth agrees to provide public notice of changes in the information necessary for the transmission and routing of services using its local exchange facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks.

**B.** The interconnection of all networks will be based upon accepted industry/national guidelines for transmission standards and traffic blocking criteria.

**C.** The parties will work cooperatively to apply sound network management principles by invoking appropriate network management controls, e.g., call gapping, to alleviate or prevent network congestion.

**D.** Neither party intends to charge rearrangement, reconfiguration, disconnection, termination or other non-recurring fees that may be associated with the initial reconfiguration of either party's network interconnection arrangement contained in this Agreement. However, the interconnection reconfigurations will have to be considered individually as to the application of a charge. Notwithstanding the foregoing, the parties do intend to charge non-recurring fees for any additions to, or added capacity to, any facility or trunk purchased.

**E.** The parties agree to provide Common Channel Signaling (CCS) information to one another, where available, in conjunction with all traffic in order to enable full interoperability of CLASS features and functions except for call return. All



CCS signaling parameters will be provided, including automatic number identification (ANI), originating line information (OLI) calling party category, charge number, etc. All privacy indicators will be honored, and the parties agree to cooperate on the exchange of Transactional Capabilities Application Part (TCAP) messages to facilitate full interoperability of CCS-based features between the respective networks.

**F.** For network expansion, the parties agree to review engineering requirements on a quarterly basis and establish forecasts for trunk utilization as required by Section VI of this Agreement. New trunk groups will be implemented as stated by engineering requirements for both parties

**G** The parties agree to provide each other with the proper call information, including all proper translations for routing between networks and any information necessary for billing where BellSouth provides recording capabilities. This exchange of information is required to enable each party to bill properly.

### **XIII. Auditing Procedures**

**A.** Upon thirty (30) days written notice, each party must provide the other the ability and opportunity to conduct an annual audit to ensure the proper billing of traffic between the parties. The parties agree to retain records of call detail for a minimum of nine months from which the PLU, the percent intermediary traffic, the percent interMTA traffic, and the PIU can be ascertained. The audit shall be accomplished during normal business hours at an office designated by the party being audited. Audit request shall not be submitted more frequently than one (1) time per calendar year. Audits shall be performed by a mutually acceptable independent auditor paid for by the party requesting the audit. The PLU shall be adjusted based upon the audit results and shall apply to the usage for the quarter the audit was completed, the usage for the quarter prior to the completion of the audit, and to the usage for the two quarters following the completion of the audit

**B.** For combined interstate and intrastate Carrier traffic terminated by BellSouth over the same facilities, Carrier shall provide a PIU factor to BellSouth. Should Carrier in the future provide toll services through the use of network switched access services, then all jurisdictional report requirements, rules and regulations specified in E2.3 14 of BellSouth's Intrastate Access Services Tariff will apply to Carrier. After the Local Traffic percentage has been determined by use of the PLU factor for application and billing of Local Interconnection, the PIU factor will be used for application and billing of interstate and intrastate access charges, as appropriate.

### **XIV. Liability and Indemnification**

**A.** Neither party shall be liable to the other under this Agreement for indirect, incidental, consequential or special damages, including without limitation, lost profits, regardless of the form of action

**B.** Neither party shall be liable to the other for any act or omission of any other telecommunications company providing a portion of a service, nor shall either party hold liable any other telecommunications company providing a portion of a service for any act or omission of BellSouth or Carrier

**C.** Neither party is liable for damages to the other party's terminal location, POI nor customer's premises resulting from the furnishing of a service, including but not limited to the installation and removal of equipment and associated wiring, unless the damage is caused by a party's gross or willful negligence or intentional misconduct

**D.** Each party (the "Indemnifying Party") shall be indemnified, defended and held harmless by the other party (the "Indemnified Party") against any claim, loss or damage (including the cost of reasonable attorney's fees) arising from the other party's acts or omissions under this Agreement, including without limitation 1) Claims for libel, slander, invasion of privacy, or infringement of copyright arising from the other party's own communications; 2) Claims for patent infringement arising from combining or using the service furnished by either party in connection with facilities or equipment furnished by either party or either party's customer; 3) any claim, loss, or damage claimed by a customer of either party arising from services provided by the other party under this Agreement, or 4) all other claims arising out of an act or omission of the other party in the course of using services provided pursuant to this Agreement. The Indemnified Party shall notify the Indemnifying Party promptly in writing of any claims for which the Indemnified Party alleges that the Indemnifying Party is responsible under this section and tender the defense of such claims to the Indemnifying party. The Indemnified Party shall cooperate in every reasonable manner with the defense or settlement of such claims

**E.** Neither party assumes liability for the accuracy of the data provided to it by the other party

**F.** Neither party guarantees or makes any warranty with respect to its services when used in an explosive atmosphere

**G.** No license under patents (other than the limited license to use) is granted by either party or shall be implied or arise by estoppel, with respect to any service offered pursuant to this Agreement

**H.** Each party's failure to provide or maintain services offered pursuant to this Agreement shall be excused by labor difficulties, governmental orders, civil commotion, criminal actions taken against them, acts of God and other circumstances beyond their reasonable control

I. The obligations of the parties contained within this section shall survive the expiration of this Agreement

## **XV. More Favorable Provisions**

If BellSouth enters into an agreement ("Other Agreement") approved by the applicable Commission pursuant to Section 252 (I) of the Act which provides for interconnection within such states covered by this agreement to another requesting CMRS provider, including a BellSouth affiliate, BellSouth shall make available to Carrier such arrangement upon the same rates, terms, and conditions as those provided in the Other Agreement, Carrier may only avail itself of the Other Agreement in its entirety

## **XVI. Taxes and Fees**

**A. Definition.** For purposes of this section, the terms "taxes" and "fees" shall include but not be limited to federal, state or local sales, use, excise, gross receipts or other taxes or tax-like fees of whatever nature and however designated (including tariff surcharges and any fees, charges or other payments, contractual or otherwise, for the use of public streets or rights of way, whether designated as franchise fees or otherwise) which are imposed, or sought to be imposed, on or with respect to the services furnished hereunder or measured by the charges or payments therefor

### **B. Taxes And Fees Imposed Directly On Either Seller Or Purchaser.**

1. Taxes and fees imposed on the providing party, which are neither permitted nor required to be passed on by the providing party to its customer, shall be borne and paid by the providing party

2. Taxes and fees imposed on the purchasing party, which are not required to be collected and/or remitted by the providing party, shall be borne and paid by the purchasing party.

### **C. Taxes And Fees Imposed On Purchaser But Collected And Remitted By Seller**

1. Taxes and fees imposed on the purchasing party shall be borne by the purchasing party, even if the obligation to collect and/or remit such taxes or fees is placed on the providing party

2. To the extent permitted by applicable law, any such taxes and fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing party at the time that the respective service is billed.

3. If the purchasing party determines that in its opinion any such taxes or fees are not payable, the providing party shall not bill such taxes or fees to the purchasing party if the purchasing party provides written certification, reasonably satisfactory to the providing party, stating that it is exempt or otherwise not subject to the tax or fee, setting forth the basis therefor, and satisfying any other requirements under applicable law. If any authority seeks to collect any such tax or fee that the purchasing party has determined and certified not to be payable, or any such tax or fee that was not billed by the providing party, the purchasing party shall have the right, at its own expense, to contest the same in good faith, in its own name or on the providing party's behalf. In any such contest, the purchasing party shall promptly furnish the providing party with copies of all filings in any proceeding, protest, or legal challenge, all rulings issued in connection therewith, and all correspondence between the purchasing party and the governmental authority.

4. In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing party during the pendency of such contest, the purchasing party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.

5. If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing party shall pay such additional amount, including any interest and penalties thereon.

6. Notwithstanding any provision to the contrary, the purchasing party shall protect, indemnify and hold harmless (and defend at the purchasing party's expense) the providing party from and against any such tax or fee, interest or penalties thereon, or other charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the providing party in connection with any claim for or contest of any such tax or fee.

7. Each party shall notify the other party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a governmental authority, such notice to be provided, if possible, at least ten (10) days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) days after receipt of such assessment, proposed assessment or claim.

8. The Purchasing Party shall have the right, at its own expense, to claim a refund or credit, in its own name or on the Providing Party's behalf, of any such tax or fee that it determines to have paid in error, and the Purchasing Party shall be entitled to any recovery thereof

**D. Taxes And Fees Imposed On Seller But Passed On To Purchaser.**

1. Taxes and fees imposed on the providing party, which are permitted or required to be passed on by the providing party to its customer, shall be borne by the purchasing party

2. To the extent permitted by applicable law, any such taxes and fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing party at the time that the respective service is billed

3. If the purchasing party disagrees with the providing party's determination as to the application or basis of any such tax or fee, the Parties shall consult with respect to the imposition and billing of such tax or fee and with respect to whether to contest the imposition of such tax or fee. Notwithstanding the foregoing, the providing party shall retain ultimate responsibility for determining whether and to what extent any such taxes or fees are applicable, and the purchasing party shall abide by such determination and pay such taxes or fees to the providing party. The providing party shall further retain ultimate responsibility for determining whether and how to contest the imposition of such taxes or fees, provided, however, that any such contest undertaken at the request of the purchasing party shall be at the purchasing party's expense.

4. In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing party during the pendency of such contest, the purchasing party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery

5. If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing party shall pay such additional amount, including any interest and penalties thereon

6. Notwithstanding any provision to the contrary, the purchasing party shall protect, indemnify and hold harmless (and defend at the purchasing party's expense) the providing party from and against any such tax or fee, interest or penalties thereon, or other charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the providing party in connection with any claim for or contest of any such tax or fee.

7. Each party shall notify the other party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a governmental authority, such notice to be provided, if possible, at least ten (10) days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) days after receipt of such assessment, proposed assessment or claim

E. Mutual Cooperation. In any contest of a tax or fee by one Party, the other Party shall cooperate fully by providing records, testimony and such additional information or assistance as may reasonably be necessary to pursue the contest. Further, the other Party shall be reimbursed for any reasonable and necessary out-of-pocket copying and travel expenses incurred in assisting in such contest

## **XVII. Treatment of Proprietary and Confidential Information**

A. The parties agree that it may be necessary to provide each other with certain confidential information, including trade secret information, including but not limited to, technical and business plans, technical information, proposals, specifications, drawings, procedures, customer account data, call detail records and like information (hereinafter collectively referred to as "Information"). The parties agree that if Information is provided in written, graphic or other usable form and clearly marked with a confidential, private or proprietary legend, then that Information will be returned to the owner within a reasonable time. Both parties agree that such marked Information shall not be copied or reproduced in any form except to the extent required to perform this Agreement. The parties shall protect any Information received from distribution, disclosure or dissemination to anyone except employees of the parties with an identifiable need to know such Information who agree in writing to be bound by the terms of this Section, however, in no event shall any of Carrier's Information be disclosed to any person employed by an Affiliate of BellSouth engaged in the provision of CMRS. In the event any person having had access to Carrier's Information is subsequently employed by an Affiliate of BellSouth engaged in the provision of CMRS, such person shall be required to agree in writing not to reveal or use such Information. The parties will use the same standard of care to protect Information received as they would use to protect their own confidential and proprietary Information.

B. Notwithstanding the foregoing, all Information in any party's possession that would constitute Customer Proprietary Network Information of the party or the parties' customers pursuant to any federal or state law or the rules and regulations of the FCC or any state commission, and any Information developed or received by a party regarding the other party's facilities, services, volumes, or usage shall automatically be deemed confidential Information for all purposes, even if not marked as such, and shall be held confidential as is required for Information.

C. Notwithstanding the foregoing, there will be no obligation to protect any portion of any Information that is either: 1) made publicly available by the owner of the Information or lawfully disclosed by a nonparty to this Agreement; 2) lawfully obtained from any source other than the owner of the Information, 3) independently developed by personnel of the receiving party to whom Information had not been previously disclosed and not based on or derived from such Information, or 4) previously known to the receiving party without an obligation to keep it confidential. A party may also disclose all Information it is required or ordered to disclose by law, a court, or governmental agency, as long as the party that owns such Information has been notified of the required disclosure promptly after the disclosing party becomes aware of its requirement to disclose. The party required to disclose the Information shall take all lawful measures to avoid disclosing the Information called for until the party that owns the Information has had a reasonable time to seek and comply with a protective order issued by a court or governmental agency of competent jurisdiction with respect to the Information otherwise required to be disclosed.

D. The party's obligations to safeguard information shall survive the expiration or termination of this Agreement

#### **XVIII. Resolution of Disputes**

Except as otherwise stated in this Agreement, the parties agree that if any dispute arises as to the interpretation of any provision of this Agreement or as to the proper implementation of this Agreement, the parties will initially refer the issue to the individuals in each company that negotiated the Agreement. If the issue is not resolved within 30 days, either party may petition the Commission for a resolution of the dispute, and/or pursue any other remedy available to it at law or in equity.

#### **XIX. Limitation of Use**

The parties agree that this Agreement shall not be proffered by either party in another jurisdiction as evidence of any concession or as a waiver of any position taken by the other party in that jurisdiction or for any other purpose.

#### **XX. Waivers**

Any failure by either party to insist upon the strict performance by the other party of any of the provisions of this Agreement shall not be deemed a waiver of any of the provisions of this Agreement, and each party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Agreement.

**XXI. Assignment**

This Agreement and the duties and obligations hereunder may not be assigned by either party without the express written consent of the other party and an agreement by the assignee to be fully bound by the terms and conditions hereof, provided, however, that such consent will not be unreasonably withheld. Notwithstanding the foregoing, either party may, upon sixty (60) days prior written notice, assign this Agreement, in whole or in part, to an Affiliate as defined in the Communications Act of 1934, as amended; provided, however that the assignee agrees to be fully bound by the terms and conditions hereof.

**XXII. Severability**

In the event any provision of this agreement shall be held to be invalid, illegal or unenforceable, it shall be severed from the Agreement and shall not affect any other provision hereof. The remainder of the Agreement shall remain valid and enforceable and shall continue in full force and effect, provided, however, that if any severed provision(s) of this Agreement are essential to any party's ability to continue to perform its material obligations hereunder to the reasonable satisfaction of the party to which the obligations are owed, the parties shall immediately begin negotiations to replace severed provision(s).

**XXIII. Execution**

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**XIV. Survivability**

Any liabilities or obligations of a party for acts or omissions to the termination or expiration of this Agreement, any obligation of a party under Section XIV (Liability and Indemnification), Section XVII (Treatment of Proprietary and Confidential Information), and any other provisions of this Agreement which, by their terms, are contemplated to survive (or to be performed after) termination or expiration of the Agreement shall survive termination or expiration thereof

**XV. Governing Law**

This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Georgia, without regard to its conflict of laws principles, and the Communications Act of 1934 as amended by the Act



## **XVI. Arm's Length Negotiations**

This Agreement was executed after arm's length negotiations between the undersigned parties and reflects the conclusion of the undersigned that this Agreement is in the best interests of all parties

## **XVII. Notices**

**A.** Every notice, consent, approval, or other communications required or contemplated by this Agreement shall be in writing and shall be delivered in person, via overnight mail, or given by postage prepaid mail, address to:

**BellSouth Telecommunications, Inc.**  
675 W Peachtree St N.E.  
Suite 4300  
Atlanta, Georgia 30375  
Attn: Legal Dept "Wireless" Attorney

**TeleCorp Communications, Inc.**  
1010 N Glebe Road  
Suite 800  
Arlington, VA 22201  
Attn: Thomas H Sullivan, Esq ,  
General Counsel

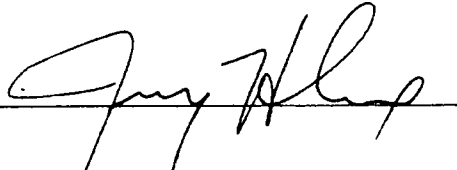
or at such other address as the intended recipient previously shall have designated by written notice to the other party

**B.** Where specifically required, notices shall be by certified or registered mail. Unless otherwise provided in this Agreement, notice by mail shall be effective on the date it is officially recorded as delivered by return receipt or equivalent, and in the absence of such record of delivery, it shall be presumed to have been delivered the fifth day, or next business day after the fifth day, after it was deposited in the mails, and by overnight mail, the day after being sent

## **XXVIII. Entire Agreement**

This Agreement and its Attachments, incorporated herein by this reference, sets forth the entire understanding and supersedes prior agreements between the parties relating to the subject matter contained herein and merges all prior discussions between them, and neither party shall be bound by any definition, condition, provision, representation, warranty, covenant or promise other than as expressly stated in this Agreement or as is contemporaneously or subsequently set forth in writing and executed by a duly authorized officer or representative of the party to be bound thereby. In the event of any conflict between the term(s) of this Agreement and those of an applicable tariff, the terms of this Agreement shall control

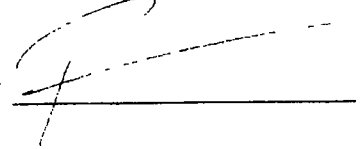
**BellSouth Telecommunications, Inc.**

By   
Jeffry D Hendrix  
Name

Director  
Title

1/6/99  
Date

**TeleCorp Communications, Inc.**

By   
Thomas H Sullivan  
Name

President  
Title

14. 5/99  
Date

## Attachment B-1

### CMRS Local Interconnection Rates (All rates are Per Minute of Use)

#### Louisiana

Type 1 (End Office Switched)	\$ 003730
Type 2A (Tandem Switched).	\$ 003730
Type 2B (Dedicated End Office):	\$ 001599

#### Tennessee

Type 1 (End Office Switched)	\$ 003767
Type 2A (Tandem Switched).	\$ 003767
Type 2B (Dedicated End Office):	\$ 0019

## Attachment C-1

### Unbundled Products and Services and New Services

Service: Subscriber Listing Information

Description: Subscriber primary listing information provided at no charge and in an acceptable format will be published at no charge as standard directory listings in an alphabetical directory published by or for BellSouth at no charge to each CMRS end user customer.

State(s): All

Rates (1) No charge for CMRS-1 customer primary listings.  
(2) Additional listings and optional listings may be provided by BellSouth at rates set forth in BellSouth's intrastate General Subscriber Services Tariffs

## Attachment C-13

### Unbundled Products and Services and New Services

#### Service Virtual Collocation

**Description** Virtual Expanded Interconnection Service (VEIS) provides for location interconnection in collocator-provided/BellSouth leased fiber optic facilities to BellSouth's switched and special access services, and local interconnection facilities.

#### Rates, Terms and Conditions

**State(s)** All except Florida In all states except Florida, the rates, terms and conditions will be applied as set forth in Section 20 of BellSouth Telecommunication's, Inc Interstate Access Service Tariff, FCC No. 1

**State.** Florida In the state of Florida, the rates, terms and conditions will be applied as set forth in Section E20 of BellSouth Telecommunication's, Inc. Intrastate Access Service Tariff.

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#### Service. Physical Collocation

**Description.** Per FCC - (10/19/92 FCC Order, para 39)  
Physical Collocation is whereby "the interconnection party pays for LEC central office space in which to locate the equipment necessary to terminate its transmission links, and has physical access to the LEC central office to install, maintain, and repair this equipment."

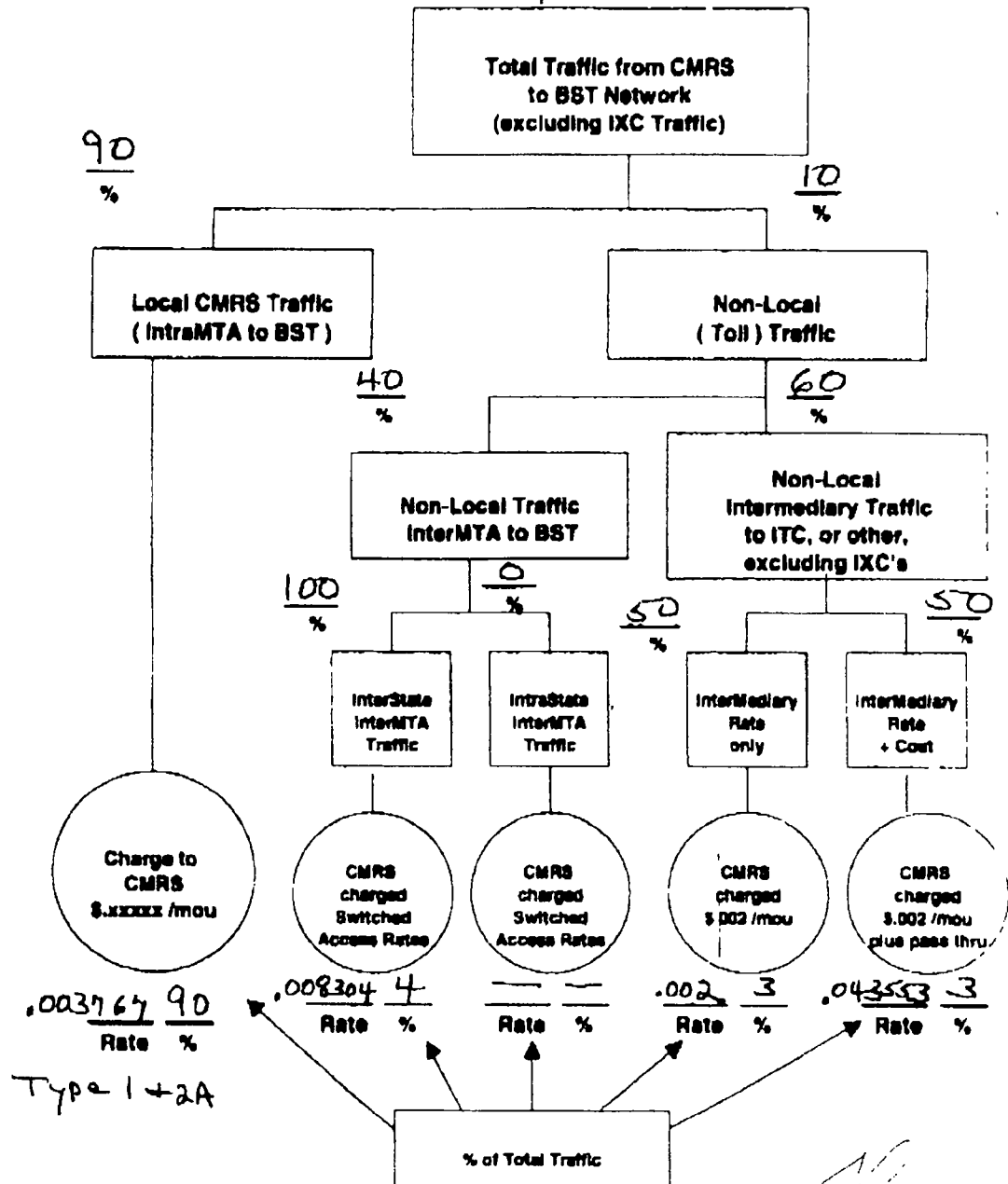
**State(s):** All

**Rates, Terms and Conditions** To be negotiated

# MOBILE ORIGINATED TRAFFIC to BELLSOUTH NETWORK

Type 1 + 2A

CARRIER TeleCorp Communications  
 STATE Tennessee  
 CONTRACT # CMRS 0092  
 Effective 11/24/98



cmrflow.doc

11/2/98

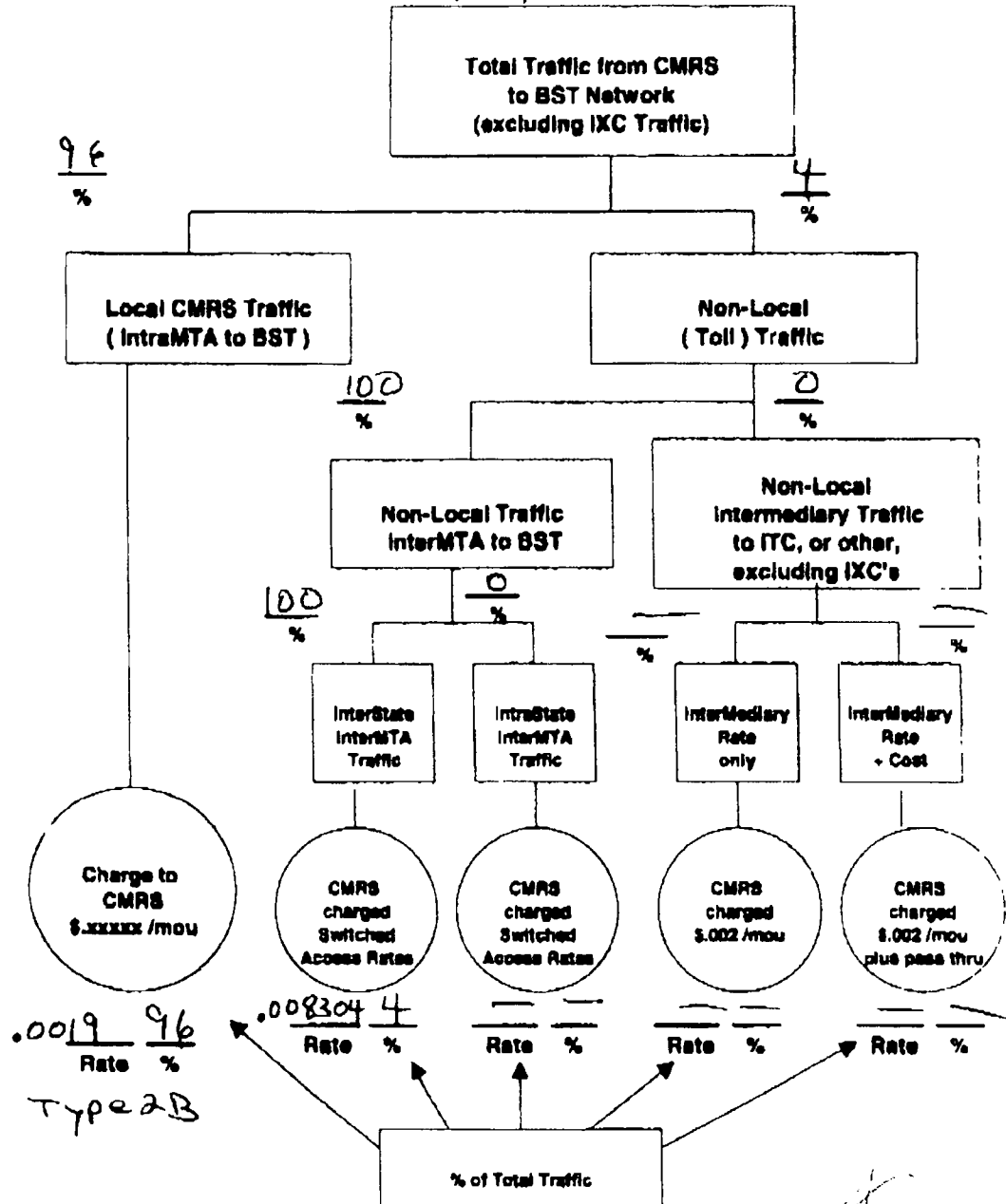
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Form RSD-1

# MOBILE ORIGINATED TRAFFIC to BELLSOUTH NETWORK

Type 2B

CARRIER TeleCorp  
 STATE Tennessee  
 CONTRACT # CMRS0092  
 Effective 1/24/98



cmrflow.doc

11/2/98

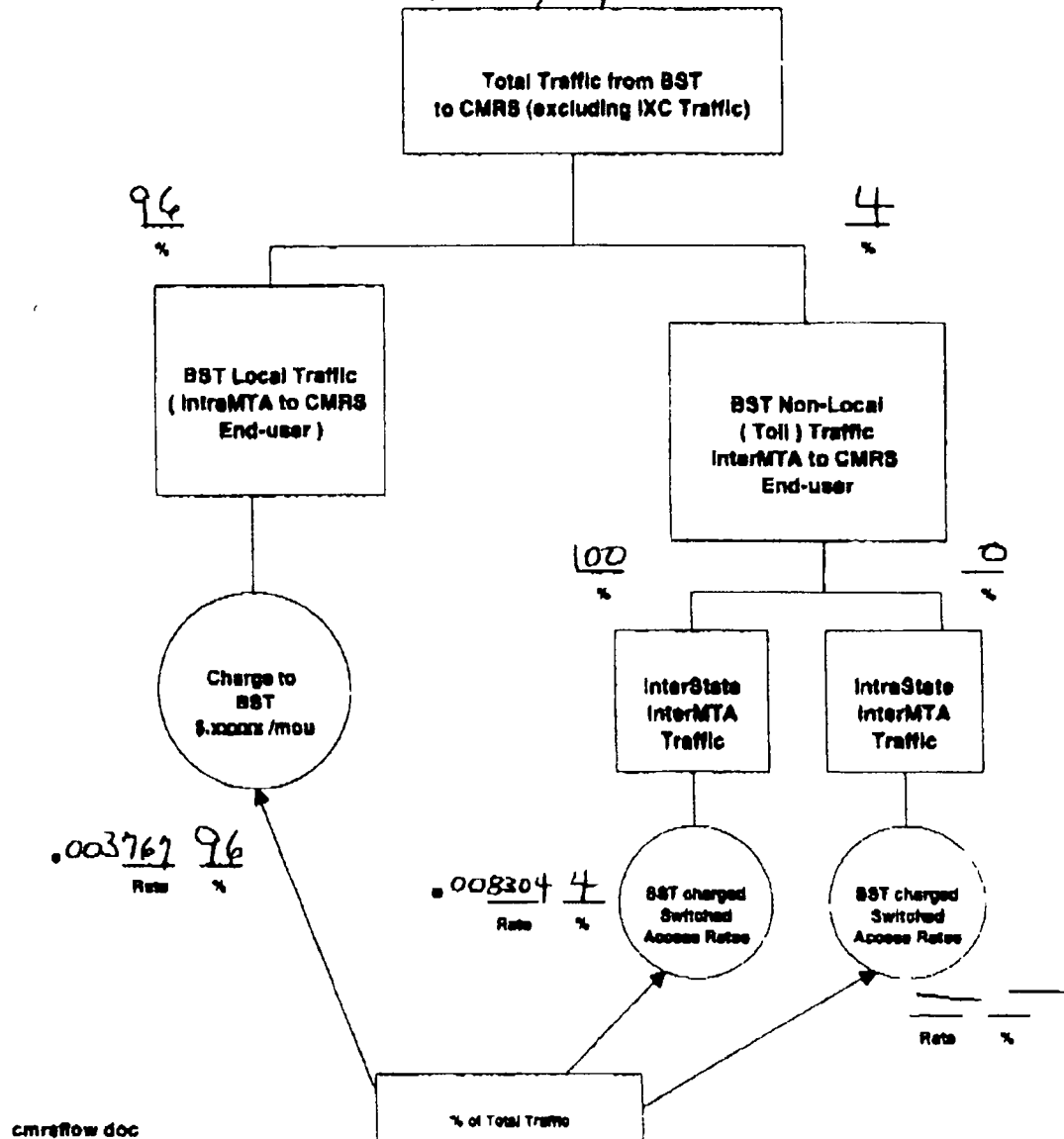
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1-6-99

Form ASD-2

# BELLSOUTH ORIGINATED TRAFFIC to MOBILE (CMRS) NETWORK

Type 1+2A

CARRIER TeleCom CommunicationsSTATE TennesseeCONTRACT # CMRS0092  
Effective 1/24/98

11/2/98

2

14-PA  
1-6-99



## AGREEMENT

**THIS AGREEMENT** is made by and between BellSouth Telecommunications, Inc., ("BellSouth"), a Georgia corporation, and Tritel Communications, Inc., ("Carrier") a Delaware corporation and shall be deemed effective as of March 16, 2001, (the "Effective Date"). This agreement may refer to either BellSouth or Carrier or both as a "party" or "parties."

## WITNESSETH

**WHEREAS**, BellSouth is an incumbent local exchange carrier (ILEC) authorized to provide telecommunications services in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, and

**WHEREAS**, Carrier is a Commercial Mobile Radio Service ("CMRS") provider licensed by the Federal Communications Commission ("FCC") to provide CMRS in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi and Tennessee; and

**WHEREAS**, the parties wish to interconnect their facilities and exchange traffic for the purposes of fulfilling their obligations pursuant to sections 251, 252 and 271 of the Telecommunications Act of 1996 and to replace any and all other prior agreements, both written and oral;

**NOW THEREFORE**, in consideration of the mutual agreements contained herein, BellSouth and Carrier agree as follows:

**I. Definitions** For purposes of this Agreement, the following capitalized terms have the meanings set forth below unless the context requires otherwise. Terms that appear herein (whether or not capitalized) that are not defined herein have the meanings ascribed to them in the Act (defined hereto), or (if not defined therein) have the meanings customarily associated with them based on ordinary usage in the telecommunications industry as of the Effective Date.

**A. Commission** is defined as the appropriate regulatory agency in each of BellSouth's nine state region: Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.

**B. Effective Date** is defined in the first sentence of this Agreement

**C. Intermediary function** is defined as the delivery, pursuant to this agreement or to Commission directive, of local or toll (using traditional landline definitions) telecommunications traffic to or from (i) a local exchange carrier (LEC) other than BellSouth; or (ii) an alternative (or competitive) local exchange carrier ("ALEC"); or (iii) another telecommunications carrier such as a CMRS provider other than Carrier through the network of BellSouth or Carrier from or to an end user of the other party.

**D. Local Traffic** is defined for purposes of reciprocal compensation under this Agreement as: (1) any telephone call that originates on the network of Carrier within a Major Trading Area ("MTA") and terminates on the network of BellSouth in the same MTA and within the Local Access and Transport Area ("LATA") in which the call is handed off from Carrier to BellSouth, and (2) any telephone call that originates on the network of BellSouth that is handed off directly to Carrier in the same LATA in which the call originates and terminates on the network of Carrier in the MTA in which the call is handed off from BellSouth to Carrier. For purposes of this Agreement, LATA shall have the same definition as that contained in the Telecommunications Act of 1996, and MTA shall have the same definition as that contained in the FCC's rules.

**E. Local Interconnection** is defined for purposes of this Agreement as (1) the connection of the parties' respective networks for the exchange and delivery of Local Traffic between the parties to be terminated on each party's network so that end users of either party have the ability to reach end users of the other party without the use of any access code or substantial delay in the processing of the call, and 2) a LEC's provision of unbundled network features, functions, and capabilities to Carrier.

**F. Percent of Interstate Usage (PIU)** is defined as a factor to be applied to that portion of Non-Local Traffic comprised of interstate interMTA minutes of use in order to designate those minutes that should be rated as interstate access services minutes of use. The numerator is all interstate interMTA minutes of use, less any interstate minutes of use for "Terminating Party Pays" services, such as 800 Services. The denominator is all interMTA minutes of use less all minutes attributable to "Terminating Party Pays" services.

**G. Percent Local Usage (PLU)** is defined as a factor to be applied to terminating minutes of use. The numerator is all "nonintermediary" Local minutes of use. The denominator is the total minutes of use including Local and Non-Local.

**H. Telecommunications Act of 1996 ("Act")** means Public Law 104-104 of the United States Congress effective February 8, 1996. The Act amended the Communications Act of 1934 (47, U S C Section 1 et. seq )

I. **Non-Local Traffic** is defined as all traffic that is neither Local Traffic nor access services (the latter described in Section V.F of this Agreement).

## II. **Purpose**

The parties desire to enter into this Agreement consistent with all applicable federal, state and local statutes, rules and regulations in effect as of the date of its execution including, without limitation, the Act at Sections 251, 252 and 271. The access and interconnection obligations contained herein enable Carrier to provide CMRS in those areas where it is authorized to provide such services within the nine state region of BellSouth.

The parties have entered into this Agreement to memorialize their agreement with respect to certain matters concerning Local Interconnection as a result of their negotiations pursuant to Sections 251 and 252 of the Act. With respect to any facility, feature, function, service, or other arrangement concerning Local Interconnection or any other matter subject to negotiation pursuant to Sections 251 and 252 of the Act between the parties that has not been agreed upon by the parties and memorialized herein, (a) the parties may conduct further negotiations pursuant to Sections 251 and 252 of the Act upon a written request therefor by Carrier, and (b) Carrier reserves any rights it might have under Section 332(c)(1)(B) of the Communications Act of 1934, 47 U.S.C. 332(c)(1)(B), as amended.

## III. **Term of the Agreement**

A. The term of this Agreement shall be two years, beginning on the Effective Date. If as of the expiration of this Agreement, a Subsequent Agreement (as defined in Section B below) has not been executed by the Parties, this Agreement shall continue on a month-to-month basis while a Subsequent Agreement is being negotiated. The Parties' rights and obligations with respect to this Agreement after expiration shall be as set forth in Section D below.

B. The Parties agree that by no later than one hundred and eighty (180) days prior to the expiration of this Agreement, they shall commence negotiations with regard to the terms, conditions and prices of local interconnection to be effective beginning on the expiration date of this Agreement ("Subsequent Agreement").

C. If, within one hundred and thirty-five (135) days of commencing the negotiation referred to in Section B above, the Parties are unable to satisfactorily negotiate new local interconnection terms, conditions and prices, either Party may petition the Commission to establish appropriate local interconnection arrangements pursuant to 47 U.S.C. 252. The Parties agree that, in such event, they shall encourage the Commission to issue its order regarding the appropriate

local interconnection arrangements no later than the expiration date of this Agreement. The Parties further agree that in the event the Commission does not issue its order prior to the expiration date of this Agreement, or if the Parties continue beyond the expiration date of this Agreement to negotiate the local interconnection arrangements without Commission intervention, the terms, conditions and prices ultimately ordered by the Commission, or negotiated by the Parties, will be effective retroactive to the day following the expiration date of this Agreement.

D. Notwithstanding the foregoing, in the event that after the date of expiration of this Agreement and conversion of this Agreement to a month-to-month term, the Parties have not entered into a Subsequent Agreement, the one hundred sixty day (160) period for arbitration prescribed by 47 U.S.C. 252 (b)(1) has expired and either no arbitration proceeding has been filed in accordance with Section C above, or the Parties have not mutually agreed (where permissible) to extend the arbitration window for petitioning the applicable Commission(s) for resolution of those terms upon which the Parties have not agreed, then either Party may terminate this Agreement upon sixty (60) days notice to the other Party. In the event that BellSouth terminates this Agreement as provided above, BellSouth shall continue to offer services to Carrier pursuant to the terms, conditions and rates set forth in BellSouth's General Subscriber Services Tariff, Section A35, or, in the case of North Carolina, in the North Carolina Connection and Traffic Interchange Agreement effective June 30, 1994, as amended

#### **IV. Local Interconnection and Compensation**

A. The delivery of Local Traffic between the parties shall be reciprocal and compensation will be mutual according to the provisions of this Agreement. The parties agree that the exchange of traffic on BellSouth's interLATA EAS routes shall be considered as Local Traffic and compensation for the termination of such traffic shall be pursuant to the terms of this Section IV. EAS routes are those exchanges within an exchange's Basic Local Calling Area, as defined in Section A3 of BellSouth's General Subscriber Services Tariff

B. Each party will pay the other for terminating its Local Traffic on the other's network the local interconnection rates as set forth in Attachment B-1. Charges for terminating traffic will be in accumulated conversation minutes, whole and partial, measured from receipt of answer supervision to receipt of disconnect supervision and rounded up to the next whole minute at the close of the billing period. The amount that each party shall pay to the other for the delivery of Local Traffic shall be calculated by multiplying the applicable rate in Attachment B-1 for each type of call by the total minutes of use each month for each such type of call. The minutes of use or portion thereof for each call, as the case may be, will be accumulated for the monthly billing period and the total of such minutes of use for the entire month rounded to the nearest minute. The usage

charges will be based on the rounded total monthly minutes. The charges for Local Interconnection shall be billed monthly and payable monthly. Late payment fees, not to exceed 1 1/2% per month (or a lower percent as specified by an appropriate state regulatory agency) after the due date may be assessed, if undisputed interconnection charges are not paid, within thirty (30) days after the due date of the monthly bill. All charges under this agreement shall be billed within one year from the time the charge was incurred, previously unbilled charges more than one year old shall not be billed by either party.

## **V. Methods of Interconnection**

A. 1. The parties agree that there are three appropriate methods of interconnecting facilities: (1) interconnection at any technically feasible point via purchase of facilities from either party (or from a third party) by the other party, (2) physical collocation; and (3) virtual collocation where physical collocation is not practical for technical reasons or because of space limitations. Type 1, Type 2A and Type 2B interconnection arrangements described in BellSouth's General Subscriber Services Tariff, Section A35, or, in the case of North Carolina, in the North Carolina Connection and Traffic Interchange Agreement effective June 30, 1994, as amended, may be purchased pursuant to this Agreement provided, however, that such interconnection arrangements shall be provided at the rates, terms and conditions set forth in this Agreement. Facilities for interconnection or for other BellSouth-supplied facilities, features, functions, or services may be purchased by Carrier (i) pursuant to a separate agreement between the parties, or (ii) pursuant to the rates, terms and conditions set forth in applicable tariffs, including without limitation BellSouth's intrastate Switched Access (Section E6) or Special Access (Section E7) services tariff.

2. Local Interconnection shall be provided at a level of quality at least equal to that which each party provides to itself, to any of its Affiliates, or, in the case of BellSouth-supplied interconnection at least equal to that provided by BellSouth to any similarly-situated CMRS provider having interconnection arrangement(s) with BellSouth comparable to the interconnection arrangement(s) provided to Carrier under this Agreement, except that, upon request, a different level of quality may be provided to the extent technically feasible and subject to the negotiation of acceptable provisions and compensation arrangements. All interconnection facilities shall meet the applicable telecommunications industry standards of engineering, design, and operation, as the case may be, for LEC-CMRS interconnection in effect from time to time. Rates and charges for both virtual and physical collocation may be provided in a separate collocation agreement. Rates for virtual collocation will be based on BellSouth's Interstate Access Services Tariff, FCC #1, Section 20 and/or BellSouth's

Intrastate Access Services Tariff, Section E20. Rates for physical collocation will be negotiated on an individual case basis.

B. The parties will accept and provide any of the preceding methods of interconnection. Reciprocal connectivity shall be established to at least one BellSouth access tandem within every LATA Carrier desires to serve, or Carrier may elect to interconnect directly at an end office for delivery of traffic to end users served by that end office. Such interconnecting facilities shall conform, at a minimum, to the telecommunications industry standard of DS-1 pursuant to Bellcore Standard No. TR-NWT-00499. Signal transfer point, Signaling System 7 ("SS7") connectivity is required at each interconnection point after Carrier implements SS7 capability within its own network. BellSouth will provide out-of-band signaling using Common Channel Signaling Access Capability where technically and economically feasible, in accordance with the technical specifications set forth in the BellSouth Guidelines to Technical Publication, TR-TSV-000905. The parties agree to engineer their respective facilities' (i) to provide the necessary on-hook, off-hook answer and disconnect supervision, (ii) hand off calling party number ID when technically feasible, and (iii) to honor privacy codes and line blocking requests

C. Nothing herein shall prevent Carrier from utilizing existing collocation facilities, purchased from the appropriate tariffs, for local interconnection; provided, however, that, unless otherwise agreed to by the parties, if Carrier orders new facilities for interconnection or rearranges any of its existing facilities in order to use such facilities for local interconnection hereunder and a BellSouth charge is applicable thereto, BellSouth shall only charge Carrier the lower of the interstate or intrastate tariffed rate or promotional rate.

D. The parties agree to establish trunk groups from the interconnecting facilities of subsection (A) of this Section such that each party provides a reciprocal of each trunk group established by the other party. Notwithstanding the foregoing, each party may construct its network, including the interconnecting facilities, to achieve optimum cost effectiveness and network efficiency. The parties agree to provide at least a P 01 level of service and to work cooperatively in the placement and/or removal of interconnection facilities. Unless otherwise agreed

(i) BellSouth will provide or bear the cost of all trunk groups for the delivery of Local Traffic from BellSouth's network to Carrier's Mobile Telephone Switching offices within BellSouth's service territory; and

(ii) Carrier will provide or bear the cost of all trunk groups for the delivery of Local Traffic from Carrier to each BellSouth access tandem and end office at which the parties' networks are interconnected, and, Carrier will provide or bear the cost of all trunk groups for delivery and receipt of

Intermediary traffic, Carrier may supply its own interconnection facilities or may purchase such facilities (a) from BellSouth pursuant to a separate agreement or tariff for this purpose, or (b) from any other third-party supplier; and

(iii) in the event the parties agree to use two-way interconnection facilities in lieu of separate one-way facilities, the appropriate charges for such facilities shall be divided on a pro rata basis reflecting the estimated or actual percentage of traffic that terminates on the network of each party; provided however that, in such circumstance, BellSouth's treatment of Carrier as to said charges shall be consistent with BellSouth treatment of other local exchange carriers for the same charges

E. The parties will use an auditable PLU factor as a method for determining the amount of traffic exchanged by the parties that is Local Traffic and the amount of traffic that is Non-Local Traffic. The PLU factor will be used for traffic delivered by either party for termination on the other party's network.

F. When the parties provide an access service connection between an interexchange carrier ("IXC") and each other, each party will provide its own access services to the IXC. If access charges are billed, each party will bill its own access service rates to the IXC.

G. The ordering and provision of all services purchased from BellSouth by Carrier shall be as set forth in the BellSouth Telecommunications Wireless Customer Guide as amended from time to time. The ordering and provisioning of facilities or services by a party, including, but limited to, installation, testing, maintenance, repair, and disaster recovery, shall be provided at a level of quality and care at least equal to that which it provides to itself, an affiliate, or, in the case of BellSouth supplied interconnection, at least equal to that provided by BellSouth to any other similarly situated CMRS provider having interconnection arrangement(s) with BellSouth comparable to the interconnection arrangement(s) provided to Carrier under this Agreement, unless Carrier and BellSouth specifically negotiate a different level of quality or care.

H. BellSouth will make available to Carrier an electronic mail capability, via the Internet, through which Carrier may deliver ordering information to BellSouth and through which Carrier may receive confirmation of such ordering information.

## **VI. Non-Local Traffic Interconnection**

A. The delivery of Non-Local Traffic by a party to the other party shall be reciprocal and compensation will be mutual. For terminating its Non-Local Traffic on the other party's network, each party will pay either the access charges

described in paragraph (B) hereunder or the Non-Local Intermediary Charges described in paragraph (D) hereunder, as appropriate.

B. For originating and terminating intrastate or interstate interMTA Non-Local Traffic, each party shall pay the other BellSouth's intrastate or interstate, as appropriate, switched network access service rate elements on a per minute of use basis. Said rate elements shall be as set out in BellSouth's Intrastate Access Services Tariff or BellSouth's Interstate Access Services Tariff as those tariffs may be amended from time to time during the term of this Agreement. The appropriate charges will be determined by the routing of the call.

C. The parties agree that actual traffic measurements in each of the appropriate categories is the preferred method of classifying and billing traffic. If, however, either party cannot measure traffic in each category, then the parties shall agree on a surrogate method of classifying and billing traffic, taking into consideration territory served (e.g. MTA boundaries, LATA boundaries and state boundaries) and traffic routing of the parties.

D. If Non-Local Traffic originated by a party to this Agreement is delivered by the other party for termination to the network of a nonparty telecommunications carrier ("Nonparty Carrier"), then the party performing the intermediary function will bill the other party and the other party shall pay a \$.002 per minute intermediary charge in addition to any charges that the party performing the intermediary function may be obligated to pay to the Nonparty Carrier (collectively called "Non-Local Intermediary Charges"). The charges that BST may be obligated to pay to the Nonparty Carrier may change during the term of this Agreement and that the appropriate rate shall be the rate in effect when the traffic is terminated. The parties shall agree for purposes of this Section, and subject to verification by audit what percentage of the Non-Local Traffic delivered to BellSouth by Carrier shall be subject to Non-Local Intermediary Charges. The parties agree that none of the Non-Local Traffic delivered to Carrier by BellSouth shall be subject to the Non-Local Intermediary Charges, and thus none of the Non-Local Traffic delivered to Carrier by BellSouth shall be subject to the Non-Local Intermediary Charges. Also, Intermediary traffic transiting BellSouth's network to Carrier is not Local Traffic and Carrier shall not bill BellSouth for such traffic as BellSouth is not obligated to pay Carrier for such traffic.

## **VII. Provision of Network Elements**

A. BellSouth shall, upon request of Carrier, and to the extent technically feasible, provide to Carrier access to its Network Elements for the provision of a Carrier telecommunications service. Any request by Carrier for access to a BellSouth Network Element that is not already available shall be treated as a Network Element bona fide request. Carrier will pay BellSouth the cost associated with the bona fide request if Carrier cancels the request or fails to



purchase the service once completed. Carrier shall provide BellSouth access to its Network Elements as mutually agreed by the parties or as required by the Commission or the FCC.

B. A Network Element obtained by one party from the other party under this section may be used in combination with the facilities of the requesting party only to provide a telecommunications service, including obtaining billing and collection, transmission, and routing of the telecommunications service.

C. A separate agreement or an amendment to this Agreement may be required for utilization of the above referenced Network Elements.

#### **VIII. Access To Poles, Ducts, Conduits, and Rights of Way**

BellSouth will provide to Carrier, pursuant to 47 U.S.C. § 224, as amended by the Act, nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by BellSouth.

#### **IX. Access to 911/E911 Emergency Network**

A. BellSouth and Carrier recognize that 911 and E911 services were designed and implemented primarily as methods of providing emergency services to fixed location subscribers. While BellSouth and Carrier recognize the need to provide "911-like" service to mobile subscribers, both parties recognize that current technological restrictions prevent an exact duplication of the services provided to fixed location customers. BellSouth will route "911-like" calls received from Carrier to the emergency agency designated by Carrier for such calls. Carrier will provide the information necessary to BellSouth so that each call may be properly routed and contain as much pertinent information as is technically feasible.

B. BellSouth and Carrier recognize that the technology and regulatory requirements for the provision of "911-like" service by CMRS carriers are evolving and agree to modify or supplement the foregoing in order to incorporate industry accepted technical improvements that Carrier desires to implement and to permit Carrier to comply with applicable regulatory requirements.

#### **X. Access to Telephone Numbers**

Carrier is responsible for interfacing with the North American Numbering Plan administrator for all matters dealing with dedicated NXXs. BellSouth will cooperate with Carrier in the provision of shared NXXs where BellSouth is the service provider.

## **XI. Local Number Portability**

The Permanent Number Portability (PNP) database supplies routing numbers for calls involving numbers that have been ported from one local service provider to another. PNP is currently being worked in industry forums. The results of these forums will dictate the industry direction of PNP. BellSouth will provide access to the PNP database at rates, terms and conditions as set forth by BellSouth and in accordance with an effective FCC or Commission directive.

## **XII. Access to Signaling and Signaling Databases**

A. BellSouth will offer to Carrier use of BellSouth's signaling network and signaling databases on an unbundled basis at BellSouth's published tariffed rates set forth in Section XIII B below or at unbundled rates that may be available through non-tariffed arrangements. Signaling functionality will be available with both A-link and B-link connectivity.

B. Where interconnection is via B-link connections, charges for the SS7 interconnection elements are as follows: 1) Port Charge - BellSouth shall not bill an STP port charge nor shall BellSouth pay a port charge; 2) SS7 Network Usage - BellSouth shall bill its tariffed usage charge and shall pay usage billed by the Carrier at rates not to exceed those charged by BellSouth; 3) SS7 Link - BellSouth will bill its tariffed charges for only two links of each quad ordered. Application of these charges in this manner is designed to reflect the reciprocal use of the parties' signaling networks. Where interconnection is via A-link connections, charges for the SS7 interconnection elements are as follows: 1) Port Charge - BellSouth shall bill its tariffed STP port charge but shall not pay a termination charge at the Carrier's end office; 2) SS7 Network Usage - BellSouth shall bill its tariffed usage charge but shall not pay for any usage; 3) SS7 Link - BellSouth shall bill its tariffed charges for each link in the A-link pair but shall not pay the Carrier for any portion of those links.

## **XIII. Network Design and Management**

A. The parties will work cooperatively to install and maintain reliable interconnected telecommunications networks, including but not limited to, maintenance contact numbers and escalation procedures. BellSouth will provide public notice of changes in the information necessary for the transmission and routing of Carrier's services using its local exchange facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks.

**B.** The interconnection of all networks will be based upon accepted industry/national guidelines for transmission standards and traffic blocking criteria

**C.** The parties will work cooperatively to apply sound network management principles by invoking appropriate network management controls, e.g. call gapping, to alleviate or prevent network congestion.

**E.** The parties will provide Common Channel Signaling (CCS) information to one another, where available and technically feasible, in conjunction with all traffic in order to enable full interoperability of CLASS features and functions except for features or functions that have not been deployed in the parties' respective networks. All CCS signaling parameters will be provided, including automatic number identification (ANI), originating line information (OLI) calling party category, charge number, etc. All privacy indicators will be honored, and the parties agree to cooperate on the exchange of Transactional Capabilities Application Part (TCAP) messages to facilitate full interoperability of CCS-based features between the respective networks.

**F.** For network expansion, the parties will review engineering requirements on a quarterly basis and establish forecasts for trunk utilization as required by Section V of this Agreement. New trunk groups will be implemented as stated by engineering requirements for both parties

**G** The parties will provide each other with the proper call information, including all proper translations for routing between networks and any information necessary for billing where BellSouth provides recording capabilities. This exchange of information is required to enable each party to bill properly

#### **XIV. Auditing Procedures**

**A.** Upon thirty (30) days written notice each party must provide the other the ability and opportunity to conduct an annual audit to ensure the proper billing of traffic between the parties. The parties will retain records of call detail for a minimum of nine months from which the PLU, the percent intermediary traffic, the percent interMTA traffic, and the PIU can be ascertained. The audit shall be accomplished during normal business hours at an office designated by the party being audited. Audit request shall not be submitted more frequently than one (1) time per calendar year. Audits shall be performed by a mutually acceptable independent auditor paid for by the party requesting the audit. The PLU shall be adjusted based upon the audit results and shall apply to the usage for the quarter the audit was completed, the usage for the quarter prior to the completion of the audit, and to the usage for the two quarters following the completion of the audit

B. Should Carrier in the future provide toll services through the use of network switched access services, then all jurisdictional report requirements, rules and regulations specified in E2.3.14 of BellSouth's Intrastate Access Services Tariff will apply to Carrier. After the Local Traffic percentage has been determined by use of the PLU factor for application and billing of Local Interconnection, the PIU factor will be used for application and billing of interstate and intrastate access charges, as appropriate

## **XV. Liability and Indemnification**

A. **Tritel Liability.** In the event that Tritel consists of two (2) or more separate entities as set forth in this Agreement and/or any Amendments hereto, all such entities shall be jointly and severally liable for the obligations of Tritel under this Agreement.

B. **Liability for Acts or Omissions of Third Parties.** Neither Party shall be liable to the other Party for any act or omission of another telecommunications company providing services to said other Party

C. **Limitation of Liability.** Except for any indemnification obligations of the Parties hereunder, each Party's liability to the other for any action, loss, cost, claim, judgement, damages, injury or liability or expense, including without limitation reasonable attorney's fees, (collectively, "Loss") relating to or arising out of any negligent act or omission in its performance of this Agreement whether in contract or in tort, shall be limited to a credit for the actual cost of the services or functions not performed or improperly performed. Notwithstanding the foregoing, this limitation of liability shall not apply in the event of either Party's (1) gross negligence, (2) willful misconduct, or (3) material breach of any material term of this Agreement which has not been cured pursuant to the following terms. If either Party believes the other Party has materially breached this Agreement, the aggrieved party must notify the breaching Party and the breaching Party shall have sixty (60) days to cure such breach. Willful misconduct as used in this Section shall not include actions in reliance upon either Party's reasonable interpretation of this Agreement even if such term is ultimately found to be erroneous by the Commission, FCC, or court of competent jurisdiction. Further, failure to pay any undisputed sums due under this Agreement shall not be subject to the notice and cure provisions of this Section.

D. **Limitations in Tariffs** A Party may, in its sole discretion, provide in its tariffs and contracts with its End Users and third parties that relate to any service, product or function provided or contemplated under this Agreement, that to the maximum extent permitted by Applicable Law, such Party shall not be liable to the End User or third Party for (i) any Loss relating to or arising out of this Agreement, whether in contract, tort or otherwise, that exceeds the amount

such Party would have charged that applicable person for the service, product or function that gave rise to such loss or (ii) for Consequential Damages (defined hereunder) To the extent that a Party elects not to place in its tariffs or contracts such limitations of liability, and the other Party incurs a Loss as a result thereof, such Party shall indemnify and reimburse the other Party for that portion of the Loss that would have been limited had the first Party included in its tariffs and contracts the limitations of liability that such other Party included in its own tariffs at the time of such loss.

**E.** Neither BellSouth nor Tritel shall be liable for damages to the other Party's terminal location, equipment or End User premises resulting from the furnishing of a service, including, but not limited to, the installation and removal of equipment or associated wiring, except to the extent caused by a Party's negligence or willful misconduct or by a Party's failure to ground properly a local loop after disconnection.

**F.** Under no circumstance shall a Party be responsible or liable for indirect, incidental, or consequential damages, including, but not limited to, economic loss or lost business or profits, damages arising from the use or performance of equipment or software, or the loss of use of software or equipment, or accessories attached thereto, delay, error, or loss of data (collectively, "Consequential Damages") In connection with this limitation of liability, each Party recognizes that the other Party may, from time to time, provide advice, make recommendations, or supply other analyses related to the Services, or facilities described in this Agreement, and, while each Party shall use diligent efforts in this regard, the Parties acknowledge and agree that this limitation of liability shall apply to provision of such advice, recommendations, and analyses

**G** To the extent any specific provision of this Agreement purports to impose liability, or limitation of liability, on either Party different from or in conflict with the liability or limitation of liability set forth in this Section, then with respect to any facts or circumstances covered by such specific provisions, the liability or limitation of liability contained in such specific provision shall apply

**H. Indemnification for Certain Claims** The Party providing services hereunder, its affiliates and its parent company, shall be indemnified, defended and held harmless by the Party receiving services hereunder from and against any Loss arising from the receiving Party's use of the services provided under this Agreement to the extent such Loss pertains to (1) claims for libel, slander or invasion of privacy arising from the content of the receiving Party's own communications, or (2) any Loss claimed by the End User of the Party receiving services arising from such receiving Party's use or reliance on the providing Party's services, actions, duties, or obligations arising out of this Agreement

I. **Disclaimer.** EXCEPT AS SPECIFICALLY PROVIDED TO THE CONTRARY IN THIS AGREEMENT, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES TO THE OTHER PARTY CONCERNING THE SPECIFIC QUALITY OF ANY SERVICES, OR FACILITIES PROVIDED UNDER THIS AGREEMENT. THE PARTIES DISCLAIM, WITHOUT LIMITATION, ANY WARRANTY OR GUARANTEE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR FROM USAGES OF TRADE.

## **XVI. Modification of Agreement**

A. BellSouth shall make available, pursuant to 47 USC § 252(i) and the FCC rules and regulations regarding such availability, to Carrier any interconnection, service, or network element provided under any other agreement filed and approved pursuant to 47 USC § 252. The Parties shall adopt all rates, terms and conditions concerning such other interconnection, service, or network element and any other rates, terms and conditions that are interrelated or were negotiated in exchange for or in conjunction with the interconnection, service or network element being adopted. The adopted interconnection, service, or network element and agreement shall apply to the same states as such other agreement and for the identical term of such other agreement.

B. If Tritel changes its name or otherwise makes changes to its public identity due to a merger, acquisition, transfer or any other reason, it is the responsibility of Tritel to notify BellSouth of said change and request that an amendment to this Agreement, if necessary, be executed to reflect said change.

C. No modification, amendment, supplement to, or waiver of the Agreement or any of its provisions shall be effective and binding upon the Parties unless it is made in writing and duly signed by the Parties.

D. Execution of this Agreement by either Party does not confirm or imply that the executing Party agrees with any decision(s) issued pursuant to the Telecommunications Act of 1996 or with the consequences of those decisions on specific language in this Agreement. Neither Party waives its rights to appeal or otherwise challenge any such decision(s) and each Party reserves all of its rights to pursue any and all legal and/or equitable remedies, including appeals of any such decision(s).

E. In the event that any effective legislative, regulatory, judicial or other legal action materially affects any material terms of this Agreement, or the ability of Carrier or BellSouth to perform any material terms of this Agreement, Tritel or BellSouth may, on thirty (30) days' written notice require that such terms be renegotiated, and the Parties shall renegotiate in good faith such mutually

acceptable new terms as may be required. In the event that such new terms are not renegotiated within ninety (90) days after such notice, the Dispute shall be referred to the Dispute Resolution procedure set forth in Section XIX.

**F.** If any provision of this Agreement, or the application of such provision to either Party or circumstance, shall be held invalid, the remainder of the Agreement, or the application of any such provision to the Parties or circumstances other than those to which it is held invalid, shall not be effective thereby, provided that the Parties shall attempt to reformulate such invalid provision to give effect to such portions thereof as may be valid without defeating the intent of such provision.

## **XVII. Taxes and Fees**

**A. Definition.** For purposes of this section, the terms "taxes" and "fees" shall include but not be limited to federal, state or local sales, use, excise, gross receipts or other taxes or tax-like fees of whatever nature and however designated (including tariff surcharges and any fees, charges or other payments, contractual or otherwise, for the use of public streets or rights of way, whether designated as franchise fees or otherwise) which are imposed, or sought to be imposed, on or with respect to the services furnished hereunder or measured by the charges or payments therefor

**B. Taxes And Fees Imposed Directly On Either Providing Party Or Purchasing Party**

1. Taxes and fees imposed on the providing party, which are neither permitted nor required to be passed on by the providing party to its customer, shall be borne and paid by the providing party.

2. Taxes and fees imposed on the purchasing party, which are not required to be collected and/or remitted by the providing party, shall be borne and paid by the purchasing party

**C. Taxes And Fees Imposed On Purchasing Party But Collected And Remitted By Providing Party**

1. Taxes and fees imposed on the purchasing party shall be borne by the purchasing party, even if the obligation to collect and/or remit such taxes or fees is placed on the providing party.

2. To the extent permitted by applicable law, any such taxes and fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing party shall remain liable for any such taxes and fees regardless of whether they

are actually billed by the providing party at the time that the respective service is billed.

3. If the purchasing party determines that in its opinion any such taxes or fees are not payable, the providing party shall not bill such taxes or fees to the purchasing party if the purchasing party provides written certification, reasonably satisfactory to the providing party, stating that it is exempt or otherwise not subject to the tax or fee, setting forth the basis therefor, and satisfying any other requirements under applicable law. If any authority seeks to collect any such tax or fee that the purchasing party has determined and certified not to be payable, or any such tax or fee that was not billed by the providing party, the purchasing party shall have the right, at its own expense, to contest the same in good faith, in its own name or on the providing party's behalf. In any such contest, the purchasing party shall promptly furnish the providing party with copies of all filings in any proceeding, protest, or legal challenge, all rulings issued in connection therewith, and all correspondence between the purchasing party and the governmental authority.

4. In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing party during the pendency of such contest, the purchasing party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.

5. If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing party shall pay such additional amount, including any interest and penalties thereon.

6. Notwithstanding any provision to the contrary, the purchasing party shall protect, indemnify and hold harmless (and defend at the purchasing party's expense) the providing party from and against any such tax or fee, interest or penalties thereon, or other charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the providing party in connection with any claim for or contest of any such tax or fee.

7. Each party shall notify the other party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a governmental authority, such notice to be provided at least ten (10) days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) days after receipt of such assessment, proposed assessment or claim.



8. The Purchasing Party shall have the right, at its own expense, to claim a refund or credit, in its own name or on the Providing Party's behalf, of any such tax or fee that it determines to have paid in error, and the Purchasing Party shall be entitled to any recovery thereof.

**D. Taxes And Fees Imposed On Providing Party But Passed On To Purchasing Party.**

1. Taxes and fees imposed on the providing party, which are permitted or required to be passed on by the providing party to its customer, shall be borne by the purchasing party

2. To the extent permitted by applicable law, any such taxes and fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing party at the time that the respective service is billed.

3. If the purchasing party disagrees with the providing party's determination as to the application or basis of any such tax or fee, the Parties shall consult with respect to the imposition and billing of such tax or fee and with respect to whether to contest the imposition of such tax or fee. Notwithstanding the foregoing, the providing party shall retain ultimate responsibility for determining whether and to what extent any such taxes or fees are applicable, and the purchasing party shall abide by such determination and pay such taxes or fees to the providing party. The providing party shall further retain ultimate responsibility for determining whether and how to contest the imposition of such taxes or fees; provided, however, that any such contest undertaken at the request of the purchasing party shall be at the purchasing party's expense.

4. In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing party during the pendency of such contest, the purchasing party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.

5. If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing party shall pay such additional amount, including any interest and penalties thereon

6. Notwithstanding any provision to the contrary, the purchasing party shall protect, indemnify and hold harmless (and defend at the purchasing

party's expense) the providing party from and against any such tax or fee, interest or penalties thereon, or other charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the providing party in connection with any claim for or contest of any such tax or fee

7. Each party shall notify the other party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a governmental authority, such notice to be provided, if possible, at least ten (10) days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) days after receipt of such assessment, proposed assessment or claim

E. Mutual Cooperation. In any contest of a tax or fee by one Party, the other Party shall cooperate fully by providing records, testimony and such additional information or assistance as may reasonably be necessary to pursue the contest. Further, the other Party shall be reimbursed for any reasonable and necessary out-of-pocket copying and travel expenses incurred in assisting in such contest

#### **XVIII. Treatment of Proprietary and Confidential Information**

A. The parties agree that it may be necessary to provide each other with certain confidential information, including trade secret information, including but not limited to, technical and business plans, technical information, proposals, specifications, drawings, procedures, customer account data, call detail records and like information (hereinafter collectively referred to as "Information"). The parties agree that if Information is provided in written, graphic or other usable form and clearly marked with a confidential, private or proprietary legend, then that Information will be returned to the owner within a reasonable time. Both parties agree that such marked Information shall not be copied or reproduced in any form except to the extent required to perform this Agreement. The parties shall protect any Information received from distribution, disclosure or dissemination to anyone except (i) employees of the parties with an identifiable need to know such Information who agree in writing to be bound by the terms of this Section, and (ii) the parties' respective attorneys and other professional advisors having a duty to protect clients' confidential information; however, in no event shall any of Carrier's Information be disclosed to any person employed by an Affiliate of BellSouth engaged in the provision of CMRS. In the event any person having had access to Carrier's Information is subsequently employed by an Affiliate of BellSouth engaged in the provision of CMRS, such person shall be required to agree in writing not to reveal or use such Information. The parties will use the same standard of care to protect Information received, as they would use to protect their own confidential and proprietary Information

**B.** Notwithstanding the foregoing, all Information in any party's possession that would constitute Customer Proprietary Network Information of the party or the parties' customers pursuant to any federal or state law or the rules and regulations of the FCC or any state commission, and any Information developed or received by a party regarding the other party's facilities, services, volumes, or usage shall automatically be deemed confidential Information for all purposes, even if not marked as such, and shall be held confidential as is required for Information

**C.** Notwithstanding the foregoing, there will be no obligation to protect any portion of any Information that is either 1) made publicly available by the owner of the Information or lawfully disclosed by a nonparty to this Agreement, 2) lawfully obtained from any source other than the owner of the Information; 3) independently developed by personnel of the receiving party to whom Information had not been previously disclosed and not based on or derived from such Information, or 4) previously known to the receiving party without an obligation to keep it confidential. A party may also disclose all Information it is required or ordered to disclose by law, a court, or governmental agency, as long as the party that owns such Information has been notified of the required disclosure promptly after the disclosing party becomes aware of its requirement to disclose. The party required to disclose the Information shall take all lawful measures to avoid disclosing the Information called for until the party that owns the Information has had a reasonable time to seek and comply with a protective order issued by a court or governmental agency of competent jurisdiction that with respect to the Information otherwise required to be disclosed

**D.** The party's obligations to safeguard information shall survive for one (1) year after the expiration or termination of this Agreement for any reason whatsoever

## **XIX. Resolution of Disputes**

Except as otherwise stated in this Agreement if any dispute arises as to the interpretation of any provision of this Agreement or as to the proper implementation of this Agreement, the parties will initially refer the disputed issue to the individuals designated by the parties. If the issue is not resolved within 30 days, either party may petition the Commission for a resolution of the dispute. However, each Party reserves the right to seek judicial review of any ruling made by the Commission concerning this Agreement

## **XX. Limitation of Use**

The parties agree that this Agreement shall not be proffered by either party in another jurisdiction as evidence of any concession or as a waiver of any position taken by the other party in that jurisdiction or for any other purpose

## **XXI. Waivers**

Any failure by either party to insist upon the strict performance by the other party of any of the provisions of this Agreement shall not be deemed a waiver of any of the provisions of this Agreement, and each party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Agreement.

## **XXII. Assignment**

No party may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other party, which will not be unreasonably withheld; provided, that (i) the parties will permit the addition of Affiliates as parties hereto, and (ii) a party may assign its rights or delegate its obligations hereunder without the consent of the other party to an Affiliate if such Affiliate is, in the case of BellSouth, an authorized local exchange telephone carrier, or in the case of Carrier, a licensed provider of commercial mobile radio telecommunications services.

## **XXIII. Amendment**

This Agreement may not be amended in any way except upon written consent of the parties

## **XXIV. Severability**

In the event that any provision of this Agreement shall be held invalid, illegal, or unenforceable, it shall be severed from the Agreement and the remainder of this Agreement shall remain valid and enforceable and shall continue in full force and effect; provided however, that if any severed provisions of this Agreement are essential to any party's ability to continue to perform its material obligations hereunder, the parties shall immediately begin negotiations of new provisions to replace the severed provisions.

## **XXV. Survival**

Any liabilities or obligations of a party for acts or omissions prior to the cancellation or termination of this Agreement, any obligation of a party under the provisions regarding indemnification, confidential information, limitations of liability and any other provisions of this Agreement which, by their terms, are contemplated to survive (or be performed after) termination of this Agreement, shall survive cancellation or termination thereof for a period of two (2) years

## **XXVI. Governing Law**

This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Georgia, without regard to Georgia's conflict of laws principles, and, where applicable, federal law, including the Communications Act of 1934, as amended by the Act

## **XXVII. Arm's Length Negotiations**

The drafting of this Agreement was a collaborative effort between the parties. Accordingly, in connection with the interpretation for any reason of any provision of this Agreement, there shall be no inference drawn against the party that drafted such provision.

## **XXVIII. No Joint Venture**

The parties are independent contractors and nothing herein shall be construed to imply that they are partners, joint venturers or agents of one another

## **XXIX. Remedies Cumulative**

Except as otherwise expressly provided in this Agreement, each of the remedies provided under this Agreement is cumulative and is in addition to any remedies that may be available at law or in equity.

## **XXX. No Third Party Beneficiaries**

Except as may be specifically set forth in this Agreement, this Agreement does not provide and shall not be construed to provide any person not a party or proper assignee or successor hereunder with any beneficial interest, remedy, claim, liability, reimbursement, cause of action, or other privilege arising under or relating to this Agreement

## **XXXI. Publicity**

Neither party shall publish or use any advertising, sales promotions or other publicity materials that use the other party's logo, trademarks or service marks.

## **XXXII. References to Other Documents**

Whenever any provision of this Agreement refers to a technical reference, technical publication, any publication of telecommunications industry administrative or technical standards, or any other document specifically incorporated into this Agreement, it will be deemed to be a reference to the most recent version or edition

(including any amendments, supplements, addenda, or successors) or such documents that is in effect, and will include the most recent version or edition (including any amendments, supplements, addenda, or successors) or each document incorporated by reference in such a technical reference, technical publication, or publication of industry standards. Should there be an inconsistency between or among publications or standards, the parties shall mutually agree upon which requirement shall apply.

### **XXXIII. Execution**

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and which together shall constitute a single agreement. A facsimile copy of a party's execution of this Agreement shall be valid and binding upon the party and must be followed as soon as practicable thereafter by the original version of such execution.

### **XXXIV. Filing of Agreement**

Upon execution of this Agreement it shall be filed with the appropriate state regulatory agency pursuant to the requirements of Section 252 of the Act. If the regulatory agency imposes any filing or public interest notice fees regarding the filing or approval of the Agreement, Carrier shall be responsible for publishing the required notice and the publication and/or notice costs shall be borne by Carrier.

### **XXXV. Notices**

A. Every notice, consent, approval, or other communications required or contemplated by this Agreement shall be in writing and shall be delivered in person, via overnight mail, or given by postage prepaid mail, address to:

**BellSouth Telecommunications, Inc.**  
675 W. Peachtree St N.E  
Suite 4300  
Atlanta Georgia 30375  
Attn. Legal Dept. "Wireless" Attorney

**Tritel Communications, Inc.**  
111 E Capital Street  
Suite 500  
Jackson MS 39201  
Attn Mr Joseph Pardue  
Director of Carrier Relations

Copy to

Chip Gerry  
Gerry, Friend & Sapronov, LLP  
Three Ravinia Drive, Suite 1450  
Atlanta, Georgia 30346-2131

or at such other address as the intended recipient previously shall have designated by written notice to the other party

B. Where specifically required, notices shall be by certified or registered mail. Unless otherwise provided in this Agreement, notice by mail shall be effective on the date it is officially recorded as delivered by return receipt or equivalent, and in the absence of such record of delivery, it shall be presumed to have been delivered the fifth day, or next business day after the fifth day, after it was deposited in the mails, and by overnight mail, the day after being sent.

#### XXXVI. Entire Agreement

This Agreement, together with its preamble, recitals and all Attachments hereto, incorporated herein by this reference, sets forth the entire understanding and supersedes prior agreements between the parties relating to the subject matter contained herein and merges all prior discussions between them, and neither party shall be bound by any definition, condition, provision, representation, warranty, covenant or promise other than as expressly stated in this Agreement or as is contemporaneously or subsequently set forth in writing and executed by a duly authorized officer or representative of the party to be bound thereby. In the event of any conflict between the term(s) of this Agreement and those of an applicable tariff, the terms of this Agreement shall control.

**BellSouth Telecommunications, Inc.**

By \_\_\_\_\_

Randy J. Ham \_\_\_\_\_

Managing Director –  
Wireless interconnection  
Title \_\_\_\_\_

\_\_\_\_\_  
Date

**Tritel Communications, Inc.**

By \_\_\_\_\_

**Thomas H. Sullivan**  
**President**

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

JUN 05 2001

## Attachment B-1

### CMRS Local Interconnection Rates (All rates are Per Minute of Use)

#### Alabama

Type 1 (End Office Switched)	\$ .004709
Type 2A (Tandem Switched)	\$ .004709
Type 2B (Dedicated End Office)	\$ .0017

#### Florida

Type 1 (End Office Switched)	\$ 003776
Type 2A (Tandem Switched)	\$ .003776
Type 2B (Dedicated End Office):	\$ 002

#### Georgia

Type 1 (End Office Switched)	\$ 004513
Type 2A (Tandem Switched)	\$ 004513
Type 2B (Dedicated End Office):	\$ .00160

#### Kentucky

Type 1 (End Office Switched)	\$ 005273
Type 2A (Tandem Switched)	\$ 005273
Type 2B (Dedicated End Office)	\$ 002562

#### Louisiana

Type 1 (End Office Switched)	\$ 003730
Type 2A (Tandem Switched)	\$ 003730
Type 2B (Dedicated End Office)	\$ 001599

#### Mississippi

Type 1 (End Office Switched)	\$ 009104
Type 2A (Tandem Switched)	\$ 009104
Type 2B (Dedicated End Office)	\$ 0026

#### Tennessee

Type 1 (End Office Switched)	\$ 003767
Type 2A (Tandem Switched)	\$ 003767
Type 2B (Dedicated End Office)	\$ 0019



**First Amendment to  
Interconnection Agreement between  
Tritel Communications, Inc. and  
BellSouth Telecommunications, Inc.**

This Agreement (the "Amendment") is made and entered into as of April 30, 2001, between Tritel Communications, Inc., a Delaware corporation ("Tritel") and BellSouth Telecommunications, Inc. ("BellSouth"), a Georgia corporation.

WHEREAS, Tritel and BellSouth (hereinafter referred to collectively as the "Parties") have entered into that certain Interconnection Agreement, effective March 16, 2001, for the State of Tennessee, which has or will be filed with the Commission in said state (as filed, the "Tennessee Interconnection Agreement"); and

WHEREAS, the Parties have also entered into Interconnection Agreements, effective March 16, 2001, for the States of Alabama, Florida, Georgia, Kentucky, Louisiana and Mississippi (the "Interconnection Agreement") which have or will be filed with the Commissions in each of said states, and

WHEREAS the Parties desire to amend the Tennessee Interconnection Agreement; and

WHEREAS, the Parties have also entered into a contract service arrangement whereby Tritel may purchase certain BellSouth services pursuant to a Volume and Term Agreement having an Effective Date of August 1, 1999 ("Volume and Term Agreement"), and

WHEREAS, the Parties desire to amend the Tennessee Interconnection Agreement to incorporate the Volume and Term Agreement as an attachment to the Tennessee Interconnection Agreement

NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Tritel and BellSouth hereby covenant and agree that the General Terms and Conditions of the Tennessee Interconnection Agreement be amended as follows:

- 1 Section V (D) (ii) of the Interconnection Agreement is deleted in its entirety and replaced with the following.

V (D) (ii) Carrier will provide or bear the cost of all trunk groups for the delivery of Local Traffic from Carrier to each BellSouth access tandem and end office at which the parties' networks are

interconnected, and, Carrier will provide or bear the cost of all trunk groups for delivery and receipt of Intermediary traffic; Carrier may supply its own interconnection facilities or may purchase such facilities (a) from BellSouth pursuant to a separate agreement, including but not limited to, the Volume and Term Agreement attached hereto as Exhibit 1 and incorporated herein by this reference or pursuant to tariff for this purpose, or (b) from any other third-party supplier; and

2 The Parties acknowledge and agree that the term of the Volume and Term Agreement exceeds the term of the Tennessee Interconnection Agreement. As such, the Parties hereby agree that the Volume and Term Agreement shall be incorporated into any interconnection agreement subsequently entered into by the Parties for the State of Tennessee for the remainder of the term set forth in the Volume and Term Agreement. If no such subsequent interconnection agreement is negotiated, this Amendment shall survive until the expiration of the term of the Volume and Term Agreement.

3. Except as expressly provided herein, all other provisions of the Tennessee Interconnection Agreement, the Interconnection Agreement and the Volume and Term Agreement shall remain unchanged and in full force and effect.

4. Nothing in this Amendment shall in any way amend, modify, alter, limit, change, restrict or otherwise effect the rights, benefits, duties, obligations or liabilities of the Parties under the Volume and Term Agreement or the rates, terms and conditions contained therein

5 For purposes of this Amendment, capitalized terms have the meanings set forth herein unless the context requires otherwise. Terms that appear herein (whether or not capitalized) that are not defined herein have the meanings ascribed to them in the Interconnection Agreement or the Volume and Term Agreement, as the case may be, and if not defined therein have the meanings ascribed to them in the Act, or (if not defined therein) have the meanings customarily associated with them based on ordinary usage in the telecommunications industry as of the Effective Date

6 BellSouth and Tritel covenant that this Amendment shall be promptly submitted to the Tennessee Regulatory Authority for approval pursuant to section 252(e) of the Act, and agree that either or both of the parties is authorized to submit this Amendment to the Tennessee Regulatory Authority

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed by their respective duly authorized representatives on the date indicated below

**BellSouth Telecommunications, Inc.**


By. \_\_\_\_\_

Name \_\_\_\_\_

Title. \_\_\_\_\_

Date. \_\_\_\_\_

**Tritel Communications, Inc.**

By  \_\_\_\_\_

Name **Thomas H. Sullivan**  
**President**

Title \_\_\_\_\_

Date **JUN 07 2001**

## AGREEMENT

**THIS AGREEMENT** is made by and between BellSouth Telecommunications, Inc., ("BellSouth"), a Georgia Corporation, and TeleCorp Communications, Inc., ("Carrier") a Delaware Corporation and shall be deemed effective as of July 21, 2000, (the "Effective Date"). This Agreement may refer to either BellSouth or Carrier or both as a "party" or "parties."

## WITNESSETH

**WHEREAS**, BellSouth is a local exchange telecommunications company authorized to provide telecommunications services in the states of Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee; and

**WHEREAS**, Carrier is a Commercial Mobile Radio Service ("CMRS") provider licensed by the Federal Communications Commission ("FCC") to provide CMRS in the states of Kentucky, Louisiana, Mississippi and Tennessee; and

**WHEREAS**, the parties wish to interconnect their facilities and exchange traffic for the purposes of fulfilling their obligations pursuant to sections 251, 252 and 271 of the Telecommunications Act of 1996 and to replace any and all other prior agreements, both written and oral,

**NOW THEREFORE**, in consideration of the mutual agreements contained herein, BellSouth and Carrier agree as follows

### I. Definitions

**A. Commission** is defined as the appropriate regulatory agency in each of BellSouth's nine state region: Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee

**B. Intermediary function** is defined as the delivery, pursuant to this agreement or Commission directive, of local or toll (using traditional landline definitions) traffic to or from a local exchange carrier other than BellSouth, a CLEC, or another telecommunications company such as a CMRS provider other than Carrier through the network of BellSouth or Carrier from or to an end user of BellSouth or Carrier

**C. Local Traffic** is defined for purposes of reciprocal compensation under this Agreement as: (1) any telephone call that originates on the network of Carrier within a Major Trading Area ("MTA") and terminates on the network of BellSouth in the same MTA and within the Local Access and Transport Area ("LATA") in which the call is handed off from Carrier to BellSouth, and (2) any telephone call that originates on the network of BellSouth that is handed off to Carrier in the same LATA in which the call originates and terminates on the network of Carrier in the MTA in which the call is handed off from BellSouth to Carrier. For purposes of this Agreement, LATA shall have the same definition as that contained in the Telecommunications Act of 1996, and MTA shall have the same definition as that contained in the FCC's rules.

**D. Local Interconnection** is defined for purposes of this Agreement as 1) the delivery of Local Traffic to be terminated on each party's local network so that end users of either party have the ability to reach end users of the other party without the use of any access code or substantial delay in the processing of the call; and 2) the LEC unbundled network features, functions, and capabilities set forth in this Agreement

**E. Non-Local Traffic** is defined as all traffic that is not Local Traffic or access services, as described in section VI of this Agreement

**F. Percent of Interstate Usage (PIU)** is defined as a factor to be applied to that portion of Non-Local Traffic comprised of interstate interMTA minutes of use in order to designate those minutes that should be rated as interstate access services minutes of use. The numerator includes all interstate interMTA minutes of use, less any interstate minutes of use for "Terminating Party Pays" services, such as 800 Services. The denominator includes all interMTA minutes of use less all minutes attributable to Terminating Party Pays services

**G. Percent Local Usage (PLU)** is defined as a factor to be applied to terminating minutes of use. The numerator is all "nonintermediary" Local minutes of use. The denominator is the total minutes of use including Local and Non-Local

**H. Telecommunications Act of 1996 ("Act")** means Public Law 104-104 of the United States Congress effective February 8, 1996. The Act amended the Communications Act of 1934 (47, U.S.C. Section 1 et seq.)

## **II. Purpose**

The parties desire to enter into this Agreement consistent with all applicable federal, state and local statutes, rules and regulations in effect as of the date of its execution including, without limitation, the Act at Sections 251, 252 and 271. The access and interconnection obligations contained herein enable Carrier to provide

CMRS in those areas where it is authorized to provide such services within the nine state region of BellSouth.

### **III. Term of the Agreement**

**A.** The term of this Agreement shall be two years, beginning July 21, 2000. If as of the expiration of this Agreement, a Subsequent Agreement (as defined in Section B below) has not been executed by the Parties, this Agreement shall continue on a month-to-month basis while a Subsequent Agreement is being negotiated. The Parties' rights and obligations with respect to this Agreement after expiration shall be as set forth in Section D below.

**B.** The Parties agree that by no later than one hundred and eighty (180) days prior to the expiration of this Agreement, they shall commence negotiations with regard to the terms, conditions and prices of local interconnection to be effective beginning on the expiration date of this Agreement ("Subsequent Agreement").

**C.** If, within one hundred and thirty-five (135) days of commencing the negotiation referred to in Section B above, the Parties are unable to satisfactorily negotiate new local interconnection terms, conditions and prices, either Party may petition the Commission to establish appropriate local interconnection arrangements pursuant to 47 U.S.C. 252. The Parties agree that, in such event, they shall encourage the Commission to issue its order regarding the appropriate local interconnection arrangements no later than the expiration date of this Agreement. The Parties further agree that in the event the Commission does not issue its order prior to the expiration date of this Agreement, or if the Parties continue beyond the expiration date of this Agreement to negotiate the local interconnection arrangements without Commission intervention, the terms, conditions and prices ultimately ordered by the Commission, or negotiated by the Parties, will be effective retroactive to the day following the expiration date of this Agreement.

**D.** Notwithstanding the foregoing, in the event that as of the date of expiration of this Agreement and conversion of this Agreement to a month-to-month term, the Parties have not entered into a Subsequent Agreement and either no arbitration proceeding has been filed in accordance with Section C above, or the Parties have not mutually agreed (where permissible) to extend the arbitration window for petitioning the applicable Commission(s) for resolution of those terms upon which the Parties have not agreed, then either Party may terminate this Agreement upon sixty (60) days notice to the other Party. In the event that BellSouth terminates this Agreement as provided above, BellSouth shall continue to offer services to Carrier pursuant to the terms, conditions and rates set forth in BellSouth's General Subscriber Services Tariff, Section A35, or,

in the case of North Carolina, in the North Carolina Connection and Traffic Interchange Agreement effective June 30, 1994, as amended

#### **IV. Local Interconnection and Compensation**

A. The exchange of the parties' traffic on BellSouth's interLATA EAS routes shall be considered Local Traffic and compensation for the termination of such traffic shall be pursuant to the terms of this section. EAS routes are those exchanges within an exchange's Basic Local Calling Area, as defined in Section A3 of BellSouth's General Subscriber Services Tariff.

B. Each party will pay the other for terminating its Local Traffic on the other's network the local interconnection rates as set forth in Attachment B-1. Charges for terminating traffic will be in accumulated conversation minutes, whole and partial, measured from receipt of answer supervision to receipt of disconnect supervision and rounded up to the next whole minute at the close of the billing period. The charges for local interconnection are to be billed and paid monthly. Late payment fees, not to exceed 1 1/2% per month (or a lower percent as specified by an appropriate state regulatory agency) after the due date may be assessed, if undisputed interconnection charges are not paid, within thirty (30) days after the due date of the monthly bill. All charges under this agreement shall be billed within one year from the time the charge was incurred, previously unbilled charges more than one year old shall not be billed by either party.

#### **V. Methods of Interconnection**

A. There are three appropriate methods of interconnecting facilities: (1) interconnection via purchase of facilities from either party by the other party, (2) physical collocation; and (3) virtual collocation where physical collocation is not practical for technical reasons or because of space limitations. Type 1, Type 2A and Type 2B interconnection arrangements described in BellSouth's General Subscriber Services Tariff, Section A35, or, in the case of North Carolina, in the North Carolina Connection and Traffic Interchange Agreement effective June 30, 1994, as amended, may be purchased pursuant to this Agreement provided, however, that such interconnection arrangements shall be provided at the rates, terms and conditions set forth in this Agreement. Rates and charges for both virtual and physical collocation may be provided in a separate collocation agreement. Rates for virtual collocation will be based on BellSouth's Interstate Access Services Tariff, FCC #1, Section 20 and/or BellSouth's Intrastate Access Services Tariff, Section E20. Rates for physical collocation will be negotiated on an individual case basis.

B. The parties will accept and provide any of the preceding methods of interconnection. Reciprocal connectivity shall be established to at least one

BellSouth access tandem within every LATA Carrier desires to serve, or Carrier may elect to interconnect directly at an end office for interconnection to end users served by that end office. Such interconnecting facilities shall conform, at a minimum, to the telecommunications industry standard of DS-1 pursuant to Bellcore Standard No. TR-NWT-00499. Signal transfer point, Signaling System 7 ("SS7") connectivity is required at each interconnection point after Carrier implements SS7 capability within its own network. BellSouth will provide out-of-band signaling using Common Channel Signaling Access Capability where technically and economically feasible, in accordance with the technical specifications set forth in the BellSouth Guidelines to Technical Publication, TR-TSV-000905. The parties facilities' shall provide the necessary on-hook, off-hook answer and disconnect supervision and shall hand off calling party number ID when technically feasible. In the event a party interconnects via the purchase of facilities and/or services from the other party, the appropriate intrastate tariff, as amended from time to time will apply. In the event that such facilities are used for two-way interconnection, the appropriate recurring charges for such facilities will be shared by the parties based upon percentages equal to the estimated or actual percentage of traffic on such facilities.

C. Nothing herein shall prevent Carrier from utilizing existing collocation facilities, purchased from the interexchange tariffs, for local interconnection, provided, however, that if Carrier orders new facilities for interconnection or rearranges any facilities presently used for its alternate access business in order to use such facilities for local interconnection hereunder and a BellSouth charge is applicable thereto, BellSouth shall only charge Carrier the lower of the interstate or intrastate tariffed rate or promotional rate.

D. The parties will establish trunk groups from the interconnecting facilities of subsection (A) of this section such that each party provides a reciprocal of each trunk group established by the other party. Notwithstanding the foregoing, each party may construct its network, including the interconnecting facilities, to achieve optimum cost effectiveness and network efficiency. BellSouth's treatment of Carrier as to said charges shall be consistent with BellSouth treatment of other local exchange carriers for the same charges. Unless otherwise agreed, BellSouth will provide or bear the cost of all trunk groups for the delivery of Local Traffic from BellSouth to Carrier's Mobile Telephone Switching Offices within BellSouth's service territory, and Carrier will provide or bear the cost of all trunk groups for the delivery of traffic from Carrier to each BellSouth access tandem and end office at which the parties interconnect. Carrier will also provide or bear the cost of trunk groups carrying intermediary (transit) traffic.

E. The parties will use an auditable PLU factor as a method for determining whether traffic is Local or Non-Local. The PLU factor will be used for traffic delivered by either party for termination on the other party's network.



F. When the parties provide an access service connection between an Interexchange Carrier ("IXC") and each other, each party will provide its own access services to the IXC. If access charges are billed, each party will bill its own access service rates to the IXC.

G. The ordering and provision of all services purchased from BellSouth by Carrier shall be as set forth in the BellSouth Telecommunications Wireless Customer Guide as that guide is amended by BellSouth from time to time during the term of this Agreement.

## **VI. Non-Local Traffic Interconnection**

A. The delivery of Non-Local Traffic by a party to the other party shall be reciprocal and compensation will be mutual. For terminating its Non-Local Traffic on the other party's network, each party will pay either the access charges described in paragraph (B) hereunder or the Non-Local Intermediary Charges described in paragraph (D) hereunder, as appropriate.

B. For originating and terminating intrastate or interstate interMTA Non-Local Traffic, each party shall pay the other BellSouth's intrastate or interstate, as appropriate, switched network access service rate elements on a per minute of use basis, which are set out in BellSouth's Intrastate Access Services Tariff or BellSouth's Interstate Access Services Tariff as those tariffs may be amended from time to time during the term of this Agreement.

C. Actual traffic measurements in each of the appropriate categories is the preferred method of classifying and billing traffic. If, however, either party cannot measure traffic in each category, then the parties shall agree on a surrogate method of classifying and billing traffic, taking into consideration territory served (e.g., MTA boundaries, LATA boundaries and state boundaries) and traffic routing of the parties.

D. If Non-Local Traffic originated by Carrier is delivered by BellSouth for termination to the network of a nonparty telecommunications carrier ("Nonparty Carrier"), then BST will bill Carrier and Carrier shall pay a \$ .002 per minute intermediary charge in addition to any charges that BST may be obligated to pay to the Nonparty Carrier (collectively called "Non-Local Intermediary Charges"). The charges that BellSouth may be obligated to pay to the Nonparty Carrier may change during the term of this Agreement and that the appropriate rate shall be the rate in effect when the traffic is terminated. The parties shall agree for purposes of this section, and subject to verification by audit, what percentage of the Non-Local Traffic delivered to BellSouth by Carrier shall be subject to Non-Local Intermediary Charges. None of the Non-Local Traffic delivered to Carrier by BellSouth shall be subject to the Non-Local Intermediary Charges.

## **VII. Provision of Network Elements**

**A.** BellSouth shall, upon request of Carrier, and to the extent technically feasible, provide to Carrier access to its Network Elements for the provision of a Carrier telecommunications service. Any request by Carrier for access to a BellSouth Network Element that is not already available shall be treated as a Network Element bona fide request. Carrier will pay BellSouth the cost associated with the bona fide request if Carrier cancels the request or fails to purchase the service once completed. Carrier shall provide BellSouth access to its Network Elements as mutually agreed by the parties or as required by the Commission or the FCC.

**B.** A Network Element obtained by one party from the other party under this section may be used in combination with the facilities of the requesting party only to provide a telecommunications service, including obtaining billing and collection, transmission, and routing of the telecommunications service.

**C.** A separate agreement or an amendment to this Agreement may be required for utilization of the above referenced Network Elements.

## **VIII. Access To Poles, Ducts, Conduits, and Rights of Way**

BellSouth will provide to Carrier, pursuant to 47 U.S.C. § 224, as amended by the Act, nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by BellSouth.

## **IX. Access to 911/E911 Emergency Network**

**A.** BellSouth and Carrier recognize that 911 and E911 services were designed and implemented primarily as methods of providing emergency services to fixed location subscribers. While BellSouth and Carrier recognize the need to provide "911-like" service to mobile subscribers, both parties recognize that current technological restrictions prevent an exact duplication of the services provided to fixed location customers. BellSouth will route "911-like" calls received from Carrier to the emergency agency designated by Carrier for such calls. Carrier will provide the information necessary to BellSouth so that each call may be properly routed and contain as much pertinent information as is technically feasible.

**B.** BellSouth and Carrier recognize that the technology and regulatory requirements for the provision of "911-like" service by CMRS carriers are evolving and agree to modify or supplement the foregoing in order to incorporate industry accepted technical improvements that Carrier desires to implement and to permit Carrier to comply with applicable regulatory requirements.

## **X. Directory Listings**

**A.** Subject to execution of an agreement between Carrier and BellSouth's affiliate, BellSouth Advertising & Publishing Corporation, ("BAPCO"), (1) listings shall be included in appropriate White Pages or alphabetical directories, (2) Carrier's business subscribers' listings shall also be included in appropriate Yellow Pages, or classified directories, and (3) copies of such directories shall be delivered to Carrier's subscribers.

**B.** Upon Carrier's request BellSouth will include Carrier's subscriber listings in BellSouth's directory assistance databases and BellSouth will not charge Carrier to maintain the Directory Assistance database. The parties will cooperate with each other in formulating appropriate procedures regarding lead time, timeliness, format and content of listing information

**C.** Upon Carrier's request BellSouth will provide Carrier a magnetic tape or computer disk containing the proper format for submitting subscriber listings. Carrier will provide BellSouth with its directory listings and daily updates to those listings, including new, changed, and deleted listings, in an industry-accepted format

**D.** Upon Carrier's request BellSouth and BAPCO will accord Carrier's directory listing information the same level of confidentiality which BellSouth and BAPCO accords its own directory listing information, and BellSouth shall limit access to Carrier's customer proprietary confidential directory information to those BellSouth or BAPCO employees who are involved in the preparation of listings

**E.** Additional listings and optional listings may be provided by BellSouth at the rates set forth in the General Subscriber Services Tariff as the tariff is amended from time to time during the term of this Agreement

## **XI. Access to Telephone Numbers**

Carrier is responsible for interfacing with the North American Numbering Plan administrator for all matters dealing with dedicated NXXs. BellSouth will cooperate with Carrier in the provision of shared NXXs where BellSouth is the service provider

## **XII. Local Number Portability**

The Permanent Number Portability (PNP) database supplies routing numbers for calls involving numbers that have been ported from one local service provider to another. PNP is currently being worked in industry forums. The results of these forums will dictate the industry direction of PNP. BellSouth will provide access to the PNP

database at rates, terms and conditions as set forth by BellSouth and in accordance with an effective FCC or Commission directive.

### **XIII. Access to Signaling and Signaling Databases**

**A.** BellSouth will offer to Carrier use of its signaling network and signaling databases on an unbundled basis at BellSouth's published tariffed rates or at unbundled rates that may be available through non-tariffed arrangements. Signaling functionality will be available with both A-link and B-link connectivity.

**B.** Where interconnection is via B-link connections, charges for the SS7 interconnection elements are as follows. 1) Port Charge - BellSouth shall not bill an STP port charge nor shall BellSouth pay a port charge, 2) SS7 Network Usage - BellSouth shall bill its tariffed usage charge and shall pay usage billed by the Carrier at rates not to exceed those charged by BellSouth; 3) SS7 Link - BellSouth will bill its tariffed charges for only two links of each quad ordered. Application of these charges in this manner is designed to reflect the reciprocal use of the parties' signaling networks. Where interconnection is via A-link connections, charges for the SS7 interconnection elements are as follows. 1) Port Charge - BellSouth shall bill its tariffed STP port charge but shall not pay a termination charge at the Carrier's end office, 2) SS7 Network Usage - BellSouth shall bill its tariffed usage charge but shall not pay for any usage, 3) SS7 Link - BellSouth shall bill its tariffed charges for each link in the A-link pair but shall not pay the Carrier for any portion of those links.

### **XIV. Network Design and Management**

**A.** The parties will work cooperatively to install and maintain reliable interconnected telecommunications networks, including but not limited to, maintenance contact numbers and escalation procedures. BellSouth will provide public notice of changes in the information necessary for the transmission and routing of services using its local exchange facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks.

**B.** The interconnection of all networks will be based upon accepted industry/national guidelines for transmission standards and traffic blocking criteria.

**C.** The parties will work cooperatively to apply sound network management principles by invoking appropriate network management controls to alleviate or prevent network congestion.

**D.** Neither party intends to charge rearrangement, reconfiguration, disconnection, termination or other non-recurring fees that may be associated

with the initial reconfiguration of either party's network interconnection arrangement contained in this Agreement. However, the interconnection reconfigurations will have to be considered individually as to the application of a charge. Notwithstanding the foregoing, the parties do intend to charge non-recurring fees for any additions to, or added capacity to, any facility or trunk purchased. Parties who initiate SS7 STP changes may be charged authorized non-recurring fees from the appropriate tariffs.

**E.** The parties will provide Common Channel Signaling (CCS) information to one another, where available and technically feasible, in conjunction with all traffic in order to enable full interoperability of CLASS features and functions except for call return. All CCS signaling parameters will be provided, including automatic number identification (ANI), originating line information (OLI), calling party category, charge number, etc. All privacy indicators will be honored, and the parties agree to cooperate on the exchange of Transactional Capabilities Application Part (TCAP) messages to facilitate full interoperability of CCS-based features between the respective networks.

**F.** For network expansion, the parties will review engineering requirements on a quarterly basis and establish forecasts for trunk utilization as required by Section V of this Agreement. New trunk groups will be implemented as stated by engineering requirements for both parties.

**G.** The parties will provide each other with the proper call information, including all proper translations for routing between networks and any information necessary for billing where BellSouth provides recording capabilities. This exchange of information is required to enable each party to bill properly.

## **XV. Auditing Procedures**

**A.** Upon thirty (30) days written notice, each party must provide the other the ability and opportunity to conduct an annual audit to ensure the proper billing of traffic between the parties. The parties will retain records of call detail for a minimum of nine months from which the PLU, the percent intermediary traffic, the percent interMTA traffic, and the PIU can be ascertained. The audit shall be accomplished during normal business hours at an office designated by the party being audited. Audit request shall not be submitted more frequently than one (1) time per calendar year. Audits shall be performed by a mutually acceptable independent auditor paid for by the party requesting the audit. The PLU shall be adjusted based upon the audit results and shall apply to the usage for the quarter the audit was completed, the usage for the quarter prior to the completion of the audit, and to the usage for the two quarters following the completion of the audit.

**B.** Should Carrier in the future provide toll services through the use of network switched access services, then all jurisdictional report requirements, rules and regulations specified in E2.3 14 of BellSouth's Intrastate Access Services Tariff will apply to Carrier. After the Local Traffic percentage has been determined by use of the PLU factor for application and billing of Local Interconnection, the PIU factor will be used for application and billing of interstate and intrastate access charges, as appropriate.

#### **XVI. Liability and Indemnification**

**A.** EXCEPT AS OTHERWISE PROVIDED FOR IN THIS AGREEMENT OR IN THIS SECTION XVI, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, RELIANCE, PUNITIVE, OR SPECIAL DAMAGES SUFFERED BY THE OTHER PARTY (INCLUDING WITHOUT LIMITATION DAMAGES FOR HARM TO BUSINESS, LOST REVENUES, LOST SAVINGS, OR LOST PROFITS SUFFERED BY THE OTHER PARTY), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, WARRANTY, STRICT LIABILITY, OR TORT, INCLUDING WITHOUT LIMITATION NEGLIGENCE OF ANY KIND WHETHER ACTIVE OR PASSIVE, AND REGARDLESS OF WHETHER THE PARTIES KNEW OF THE POSSIBILITY THAT SUCH DAMAGES COULD RESULT

**B.** Neither party shall be liable to the other for any act or omission of any other telecommunications company providing a portion of a service under this Agreement, nor shall either party hold liable any other telecommunications company providing a portion of a service under this Agreement for any act or omission of BellSouth or Carrier

**C.** Neither party is liable for damages to the other party's terminal location, POI nor customer's premises resulting from the furnishing of a service, including but not limited to the installation and removal of equipment and associated wiring, unless the damage is caused by a party's gross or willful negligence or intentional misconduct

**D.** Each party shall be indemnified, defended and held harmless by the other party against any claim, loss or damage arising from the other party's acts or omissions under this Agreement, including without limitation. 1) Claims for libel, slander, invasion of privacy, or infringement of copyright arising from the other party's own communications, 2) Claims for patent infringement arising from combining or using the service furnished by either party in connection with facilities or equipment furnished by either party or either party's customer, 3) any claim, loss, or damage claimed by a customer of either party arising from services provided by the other party under this Agreement, or 4) all other claims arising out of an act or omission of the other party in the course of using services

provided pursuant to this Agreement. Each Party's liability to the other for any loss, cost, claim, injury or liability or expense, including reasonable attorney's fees relating to or arising out of any negligent act or omission in its performance of this Agreement whether in contract or in tort, shall be limited to a credit for the actual cost of the services or functions not performed or improperly performed

**E.** A Party may, in its sole discretion, provide in its tariffs and contracts with its Customer and third parties that relate to any service, product or function provided or contemplated under this Agreement, that to the maximum extent permitted by Applicable Law, such Party shall not be liable to Customer or third Party for (i) any Loss relating to or arising out of this Agreement, whether in contract, tort or otherwise, that exceeds the amount such Party would have charged that applicable person for the service, product or function that gave rise to such Loss and (ii) Consequential Damages. To the extent that a Party elects not to place in its tariffs or contracts such limitations of liability, and the other Party incurs a Loss as a result thereof, such Party shall indemnify and reimburse the other Party for that portion of the Loss that would have been limited had the first Party included in its tariffs and contracts the limitations of liability that such other Party included in its own tariffs at the time of such Loss

**F.** Neither BellSouth nor Carrier shall be liable for damages to the other's terminal location, POI or other company's customers' premises resulting from the furnishing of a service, including, but not limited to, the installation and removal of equipment or associated wiring, except to the extent caused by a company's negligence or willful misconduct or by a company's failure to properly ground a local loop after disconnection

**G.** Under no circumstance shall a Party be responsible or liable for indirect, incidental, or consequential damages, including, but not limited to, economic loss or lost business or profits, damages arising from the use or performance of equipment or software, or the loss of use of software or equipment, or accessories attached thereto, delay, error, or loss of data. In connection with this limitation of liability, each Party recognizes that the other Party may, from time to time, provide advice, make recommendations, or supply other analyses related to the Services, or facilities described in this Agreement, and, while each Party shall use diligent efforts in this regard, the Parties acknowledge and agree that this limitation of liability shall apply to provision of such advice, recommendations, and analyses

**H.** The Party providing services hereunder, its affiliates and its parent company, shall be indemnified, defended and held harmless by the Party receiving services hereunder against any claim, loss or damage arising from the receiving company's use of the services provided under this Agreement pertaining to (1) claims for libel, slander or invasion of privacy arising from the content of the receiving company's own communications, or (2) any claim, loss

or damage claimed by the customer of the Party receiving services arising from such company's use or reliance on the providing company's services, actions, duties, or obligations arising out of this Agreement

I. Notwithstanding any other provision of this Agreement, claims for damages by Carrier or Carrier's clients or any other person or entity resulting from the gross negligence or willful misconduct of BellSouth shall not be subject to such limitation of liability.

J. Notwithstanding any other provision of this Agreement claims for damages by BellSouth or any other person or entity resulting from the gross negligence or willful misconduct of Carrier shall not be subject to such limitation of liability

K. Neither party assumes liability for the accuracy of the data provided to it by the other party

L. No license under patents (other than the limited license to use) is granted by either party or shall be implied or arise by estoppel, with respect to any service offered pursuant to this Agreement

M. Each party's failure to provide or maintain services offered pursuant to this Agreement shall be excused by labor difficulties, governmental orders, civil commotion, criminal actions taken against them, acts of God and other circumstances beyond their reasonable control

N. EXCEPT AS SPECIFICALLY PROVIDED TO THE CONTRARY IN THIS AGREEMENT, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES TO THE OTHER PARTY CONCERNING THE SPECIFIC QUALITY OF ANY SERVICES, OR FACILITIES PROVIDED UNDER THIS AGREEMENT. THE PARTIES DISCLAIM, WITHOUT LIMITATION, ANY WARRANTY OR GUARANTEE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR FROM USAGES OF TRADE

O. The obligations of the parties contained within this section shall survive the expiration of this Agreement

## **XVII. Modification of Agreement**

A. BellSouth shall make available, pursuant to 47 USC § 252 and the FCC rules and regulations regarding such availability, to Carrier any interconnection, service, or network element provided under any other agreement filed and approved pursuant to 47 USC § 252. The Parties shall adopt all rates, terms and conditions concerning such other interconnection, service, or network element and



any other rates, terms and conditions that are interrelated or were negotiated in exchange for or in conjunction with the interconnection, service or network element being adopted. The adopted interconnection, service, or network element and agreement shall apply to the same states as such other agreement and for the identical term of such other agreement.

**B.** If Carrier changes its name or makes changes to its company structure or identity due to a merger, acquisition, transfer or any other reason, it is the responsibility of Carrier to notify BellSouth of said change and request that an amendment to this Agreement, if necessary, be executed to reflect said change.

**C.** No modification, amendment, supplement to, or waiver of the Agreement or any of its provisions shall be effective and binding upon the Parties unless it is made in writing and duly signed by the Parties.

**D.** Execution of this Agreement by either Party does not confirm or infer that the executing Party agrees with any decision(s) issued pursuant to the Telecommunications Act of 1996 and the consequences of those decisions on specific language in this Agreement. Neither Party waives its rights to appeal or otherwise challenge any such decision(s) and each Party reserves all of its rights to pursue any and all legal and/or equitable remedies, including appeals of any such decision(s).

**E.** In the event that any effective legislative, regulatory, judicial or other legal action materially affects any material terms of this Agreement, or the ability of Carrier or BellSouth to perform any material terms of this Agreement, Carrier or BellSouth may, on thirty (30) days' written notice require that such terms be renegotiated, and the Parties shall renegotiate in good faith such mutually acceptable new terms as may be required. In the event that such new terms are not renegotiated within ninety (90) days after such notice, the Dispute shall be referred to the Dispute Resolution procedure set forth in Section XX.

**F.** If any provision of this Agreement, or the application of such provision to either Party or circumstance, shall be held invalid, the remainder of the Agreement, or the application of any such provision to the Parties or circumstances other than those to which it is held invalid, shall not be effective thereby, provided that the Parties shall attempt to reformulate such invalid provision to give effect to such portions thereof as may be valid without defeating the intent of such provision.

#### **XVIII. Taxes and Fees**

**A. Definition:** For purposes of this section, the terms "taxes" and "fees" shall include but not be limited to federal, state or local sales, use, excise, gross receipts or other taxes or tax-like fees of whatever nature and however designated (including tariff surcharges and any fees, charges or other payments,

contractual or otherwise, for the use of public streets or rights of way, whether designated as franchise fees or otherwise) which are imposed, or sought to be imposed, on or with respect to the services furnished hereunder or measured by the charges or payments therefor.

**B. Taxes And Fees Imposed Directly On Either Providing Party Or Purchasing Party**

1. Taxes and fees imposed on the providing party, which are neither permitted nor required to be passed on by the providing party to its customer, shall be borne and paid by the providing party

2. Taxes and fees imposed on the purchasing party, which are not required to be collected and/or remitted by the providing party, shall be borne and paid by the purchasing party

**C. Taxes And Fees Imposed On Purchasing Party But Collected And Remitted By Providing Party.**

1. Taxes and fees imposed on the purchasing party shall be borne by the purchasing party, even if the obligation to collect and/or remit such taxes or fees is placed on the providing party

2. To the extent permitted by applicable law, any such taxes and fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing party at the time that the respective service is billed

3. If the purchasing party determines that in its opinion any such taxes or fees are not payable, the providing party shall not bill such taxes or fees to the purchasing party if the purchasing party provides written certification, reasonably satisfactory to the providing party, stating that it is exempt or otherwise not subject to the tax or fee, setting forth the basis therefor, and satisfying any other requirements under applicable law. If any authority seeks to collect any such tax or fee that the purchasing party has determined and certified not to be payable, or any such tax or fee that was not billed by the providing party, the purchasing party shall have the right, at its own expense, to contest the same in good faith, in its own name or on the providing party's behalf. In any such contest, the purchasing party shall promptly furnish the providing party with copies of all filings in any proceeding, protest, or legal challenge, all rulings issued in connection therewith, and all correspondence between the purchasing party and the governmental authority

4. In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing party during the pendency of such contest, the purchasing party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery

5. If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing party shall pay such additional amount, including any interest and penalties thereon

6. Notwithstanding any provision to the contrary, the purchasing party shall protect, indemnify and hold harmless (and defend at the purchasing party's expense) the providing party from and against any such tax or fee, interest or penalties thereon, or other charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the providing party in connection with any claim for or contest of any such tax or fee

7. Each party shall notify the other party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a governmental authority; such notice to be provided at least ten (10) days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) days after receipt of such assessment, proposed assessment or claim

8. The Purchasing Party shall have the right, at its own expense, to claim a refund or credit, in its own name or on the Providing Party's behalf, of any such tax or fee that it determines to have paid in error, and the Purchasing Party shall be entitled to any recovery thereof.

**D. Taxes And Fees Imposed On Providing Party But Passed On To Purchasing Party**

1. Taxes and fees imposed on the providing party, which are permitted or required to be passed on by the providing party to its customer, shall be borne by the purchasing party

2. To the extent permitted by applicable law, any such taxes and fees shall be shown as separate items on applicable billing documents between the Parties. Notwithstanding the foregoing, the purchasing party shall remain liable for any such taxes and fees regardless of whether they are actually billed by the providing party at the time that the respective service is billed

3. If the purchasing party disagrees with the providing party's determination as to the application or basis of any such tax or fee, the Parties shall consult with respect to the imposition and billing of such tax or fee and with respect to whether to contest the imposition of such tax or fee. Notwithstanding the foregoing, the providing party shall retain ultimate responsibility for determining whether and to what extent any such taxes or fees are applicable, and the purchasing party shall abide by such determination and pay such taxes or fees to the providing party. The providing party shall further retain ultimate responsibility for determining whether and how to contest the imposition of such taxes or fees, provided, however, that any such contest undertaken at the request of the purchasing party shall be at the purchasing party's expense.

4. In the event that all or any portion of an amount sought to be collected must be paid in order to contest the imposition of any such tax or fee, or to avoid the existence of a lien on the assets of the providing party during the pendency of such contest, the purchasing party shall be responsible for such payment and shall be entitled to the benefit of any refund or recovery.

5. If it is ultimately determined that any additional amount of such a tax or fee is due to the imposing authority, the purchasing party shall pay such additional amount, including any interest and penalties thereon.

6. Notwithstanding any provision to the contrary, the purchasing party shall protect, indemnify and hold harmless (and defend at the purchasing party's expense) the providing party from and against any such tax or fee, interest or penalties thereon, or other charges or payable expenses (including reasonable attorney fees) with respect thereto, which are incurred by the providing party in connection with any claim for or contest of any such tax or fee.

7. Each party shall notify the other party in writing of any assessment, proposed assessment or other claim for any additional amount of such a tax or fee by a governmental authority, such notice to be provided, if possible, at least ten (10) days prior to the date by which a response, protest or other appeal must be filed, but in no event later than thirty (30) days after receipt of such assessment, proposed assessment or claim.

E. **Mutual Cooperation** In any contest of a tax or fee by one Party, the other Party shall cooperate fully by providing records, testimony and such additional information or assistance as may reasonably be necessary to pursue the contest. Further, the other Party shall be reimbursed for any reasonable and

necessary out-of-pocket copying and travel expenses incurred in assisting in such contest

#### **XIX. Treatment of Proprietary and Confidential Information**

**A.** The parties acknowledge that it may be necessary to provide each other, during the term of this Agreement, with certain confidential information, including trade secret information, including but not limited to, technical and business plans, technical information, proposals, specifications, drawings, procedures, customer account data, call detail records and like information (hereinafter collectively referred to as "Information") All Information shall be in writing or other tangible form and clearly marked with a confidential, private or proprietary legend and that the Information will be returned to the owner within a reasonable time The Information shall not be copied or reproduced in any form. The parties shall not disclose any Information received Both parties will protect the Information received from distribution, disclosure or dissemination to anyone except employees of the parties with a need to know such Information and which employees agree to be bound by the terms of this Section Both parties will use the same standard of care to protect Information received as they would use to protect their own confidential and proprietary Information

**B.** Notwithstanding the foregoing, both parties agree that there will be no obligation to protect any portion of the Information that is either: 1) made publicly available by the owner of the Information or lawfully disclosed by a nonparty to this Agreement, 2) lawfully obtained from any source other than the owner of the Information; 3) previously known to the receiving party without an obligation to keep it confidential, or 4) requested by a governmental agency, provided that the party upon whom the request is made shall notify the party who originally provided the confidential Information at least seven (7) days prior to its release to the agency

**C.** The obligations of this Section XIX shall survive the expiration of this Agreement for a period of two (2) years

#### **XX. Resolution of Disputes**

Except as otherwise stated in this Agreement, if any dispute arises as to the interpretation of any provision of this Agreement or as to the proper implementation of this Agreement, the parties will initially refer the issue to the appropriate company representatives If the issue is not resolved within 30 days, either party may petition the Commission for a resolution of the dispute However, each party reserves the right to seek judicial review of any ruling made by the Commission concerning this Agreement

## **XXI. Limitation of Use**

This Agreement shall not be proffered by either party in another jurisdiction as evidence of any concession or as a waiver of any position taken by the other party in that jurisdiction or for any other purpose.

## **XXII. Waivers**

Any failure by either party to insist upon the strict performance by the other party of any of the provisions of this Agreement shall not be deemed a waiver of any of the provisions of this Agreement, and each party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Agreement

## **XXIII. Assignment**

No party may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of the other party, which will not be unreasonably withheld

## **XXIV. Amendment**

This Agreement may not be amended in any way except upon written consent of the parties

## **XXV. Severability**

In the event that any provision of this Agreement shall be held invalid, illegal, or unenforceable, it shall be severed from the Agreement and the remainder of this Agreement shall remain valid and enforceable and shall continue in full force and effect; provided however, that if any severed provisions of this Agreement are essential to any party's ability to continue to perform its material obligations hereunder, the parties shall immediately begin negotiations of new provisions to replace the severed provisions

## **XXVI. Survival**

Any liabilities or obligations of a party for acts or omissions prior to the cancellation or termination of this Agreement, any obligation of a party under the provisions regarding indemnification, confidential information, limitations of liability and any other provisions of this Agreement which, by their terms, are contemplated to survive (or be performed after) termination of this Agreement, shall survive cancellation or termination thereof

## **XXVII. Governing Law**

This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Georgia, without regard to its conflict of laws principles, and the Communications Act of 1934 as amended by the Act

## **XXVIII. Arm's Length Negotiations**

This Agreement was executed after arm's length negotiations between the undersigned parties and reflects the conclusion of the undersigned that this Agreement is in the best interests of all parties

## **XXIX. Filing of Agreement**

Upon execution of this Agreement it shall be filed with the appropriate state regulatory agency pursuant to the requirements of Section 252 of the Act. If the regulatory agency imposes any filing or public interest notice fees regarding the filing or approval of the Agreement, Carrier shall be responsible for publishing the required notice and the publication and/or notice costs shall be borne by Carrier

## **XXX. Notices**

**A.** Every notice, consent, approval, or other communications required or contemplated by this Agreement shall be in writing and shall be delivered in person, via overnight mail, or given by postage prepaid mail, address to

**BellSouth Telecommunications, Inc.**  
675 W Peachtree St N E  
Suite 4300  
Atlanta, Georgia 30375  
Attn Legal Dept "Wireless" Attorney

**TeleCorp Communications, Inc.**  
1010 N Glebe Rd.  
Arlington, VA 22201  
Attn General Counsel

or at such other address as the intended recipient previously shall have designated by written notice to the other party

**B.** Where specifically required, notices shall be by certified or registered mail. Unless otherwise provided in this Agreement, notice by mail shall be effective on the date it is officially recorded as delivered by return receipt or equivalent, and in the absence of such record of delivery, it shall be presumed to have been delivered the fifth day, or next business day after the fifth day, after it was deposited in the mails, and by overnight mail, the day after being sent

### XXXI. Entire Agreement

This Agreement and its Attachments, incorporated herein by this reference, sets forth the entire understanding and supersedes prior agreements between the parties relating to the subject matter contained herein and merges all prior discussions between them, and neither party shall be bound by any definition, condition, provision, representation, warranty, covenant or promise other than as expressly stated in this Agreement or as is contemporaneously or subsequently set forth in writing and executed by a duly authorized officer or representative of the party to be bound thereby. In the event of any conflict between the term(s) of this Agreement and those of an applicable tariff, the terms of this Agreement shall control.

**BellSouth Telecommunications, Inc.**

By

Randy J Ham  
Name

Manager – Wireless Interconnection  
Title

August 2, 2000  
Date

**TeleCorp Communications, Inc.**

By

Thomas H. Sullivan  
Name

President  
Title

August 7, 2000  
Date



## Attachment B-1

### CMRS Local Interconnection Rates (All rates are Per Minute of Use)

#### Kentucky

Type 1 (End Office Switched):	\$.005273
Type 2A (Tandem Switched):	\$ .005273
Type 2B (Dedicated End Office):	\$ .002562

#### Louisiana

Type 1 (End Office Switched):	\$ .003730
Type 2A (Tandem Switched):	\$.003730
Type 2B (Dedicated End Office)	\$.001599

#### Mississippi

Type 1 (End Office Switched):	\$.009104
Type 2A (Tandem Switched)	\$ .009104
Type 2B (Dedicated End Office)	\$.0026

#### Tennessee

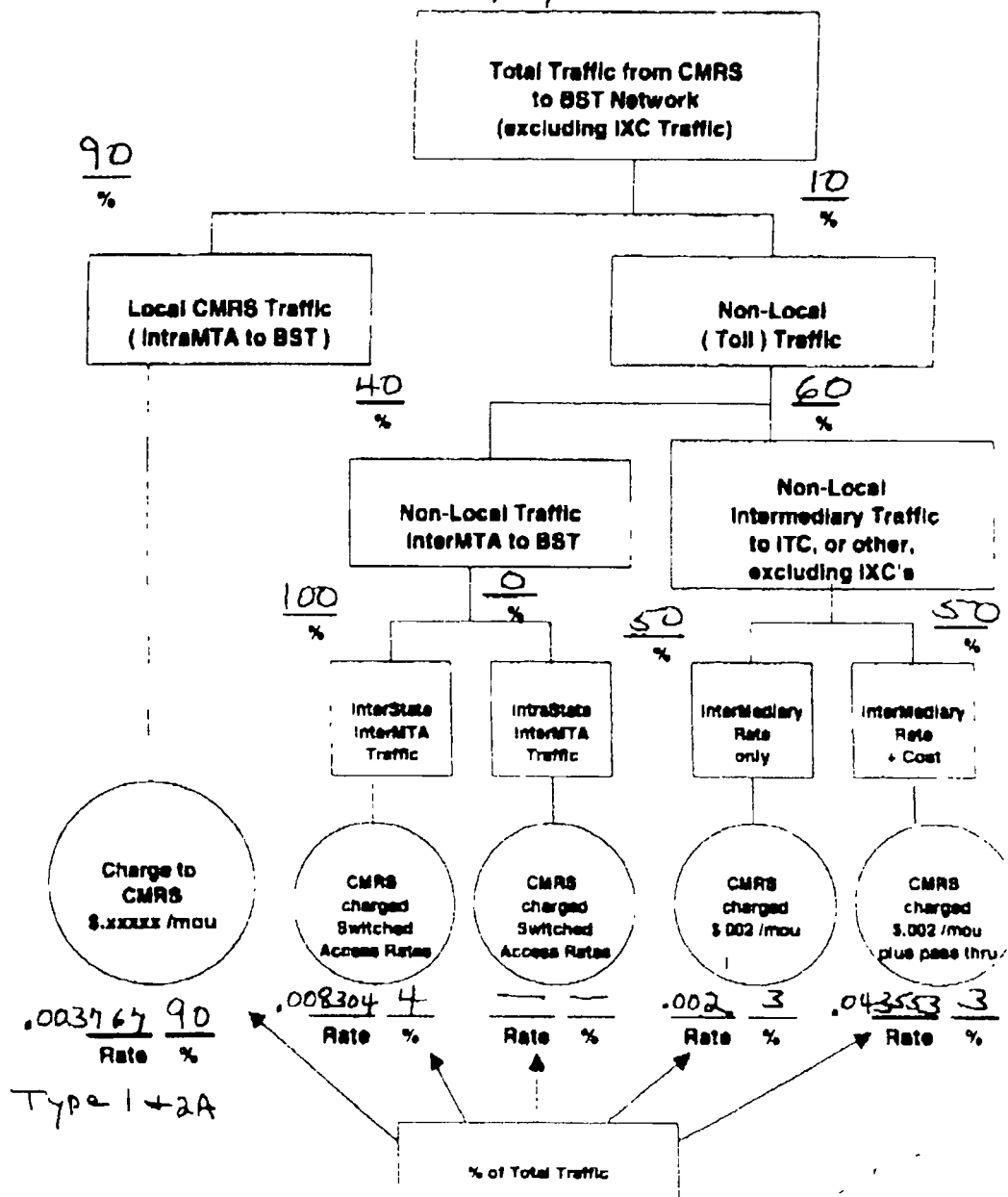
Type 1 (End Office Switched):	\$ .003767
Type 2A (Tandem Switched):	\$ .003767
Type 2B (Dedicated End Office)	\$ .0019

Form RSD-1

# MOBILE ORIGINATED TRAFFIC to BELLSOUTH NETWORK

Type 1 + 2A

CARRIER TeleCorp Communications  
 STATE Tennessee  
 CONTRACT # CMRS 0092  
 Effective 1/24/98



cmrflow.doc

11/2/98

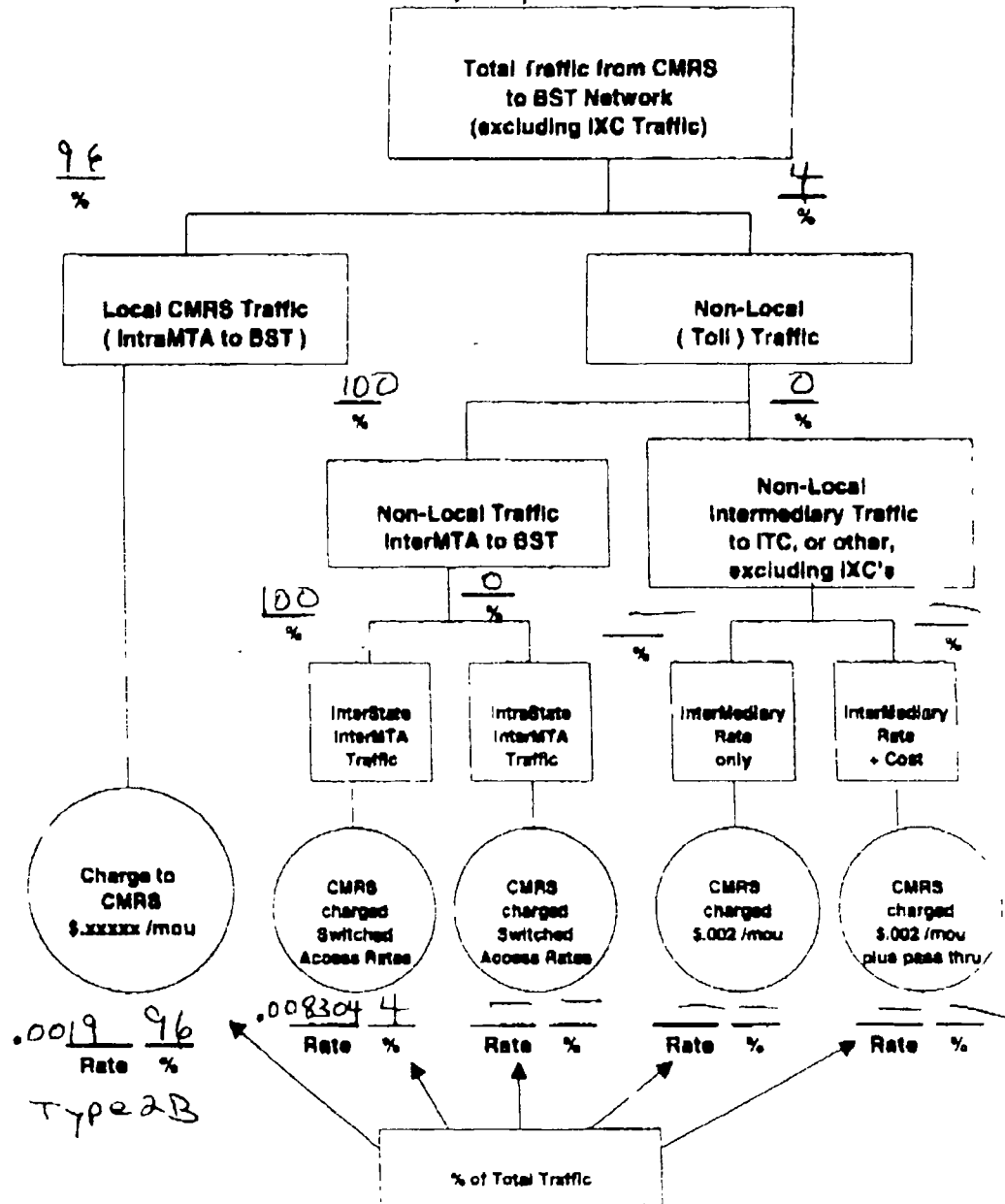
16-99

Form RSD-1

# MOBILE ORIGINATED TRAFFIC to BELLSOUTH NETWORK

Type 2B

CARRIER TeleCorp  
 STATE Tennessee  
 CONTRACT # CMRS0092  
 Effective 1/24/98



cmrflow.doc

11/2/98

1

11-6-99

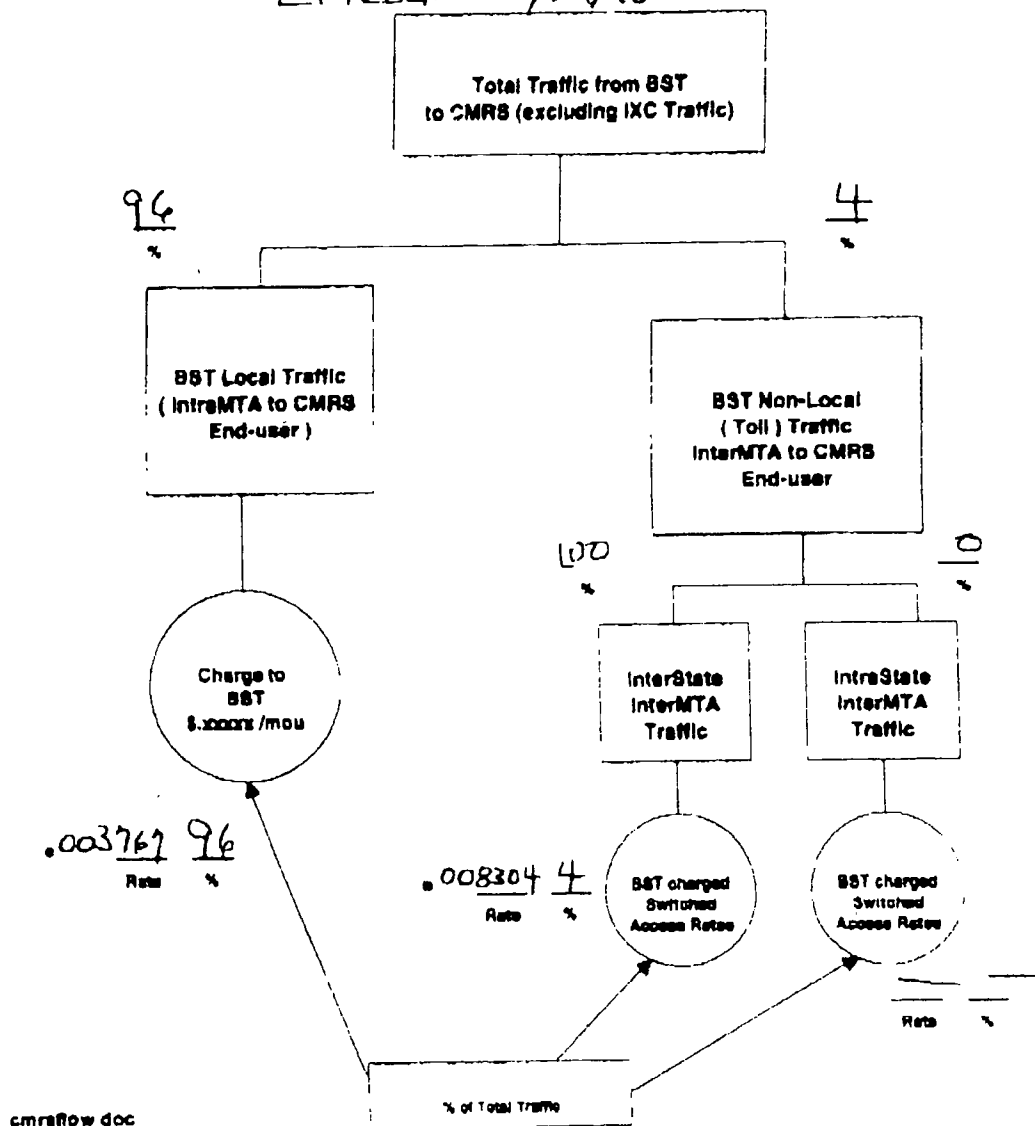
Form ASD-2

# BELLSOUTH ORIGINATED TRAFFIC to MOBILE (CMRS) NETWORK

Type 1+2A

CARRIER TeleCom Communications  
STATE Tennessee

CONTRACT # CMR50092  
Effective 1/24/98



11/2/98

2

9/16-99